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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-053-3]

Black Stem Rust; Identification Requirements and Addition of Rust-Resistant Varieties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the black stem rust quarantine and regulations to require that persons who request the addition of *Berberis*, *Mahoberberis*, or *Mahonia* spp. plants to the list of rust-resistant varieties in the regulations must provide the Agency with a description of the variety that can be used by inspectors to clearly identify the variety and distinguish it from others. We are also amending the regulations to require that inspectors verify, prior to interstate movement, that varieties match their description. Finally, we are amending the regulations to add 32 new varieties to the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species. This rule will help prevent the spread of black stem rust by providing for and requiring the accurate identification of rust-resistant varieties by inspectors and will provide for the interstate movement of newly developed varieties without unnecessary restrictions.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal S. Malik, Agriculturist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1231; (301) 734-6774.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infected wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis*, *Mahoberberis*, and *Mahonia*. The fungus is spread from host to host by wind-borne spores.

The black stem rust quarantine and regulations, which are contained in 7 CFR 301.38 through 301.38-8 (referred to below as the regulations), quarantine the conterminous 48 States and the District of Columbia and govern the interstate movement of certain plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development of new races of the rust; rust-susceptible plants do pose such risks.

Section 301.38-2 of the regulations includes a listing of regulated articles and indicates those species and varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia* that are known to be rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate.

On April 7, 1998, we published in the **Federal Register** (63 FR 16908-16909, Docket No. 97-053-1) a proposed rule to amend the regulations by adding 15 varieties to the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species. Comments on the proposed rule were required to be received on or before May 22, 1998. We received two comments by that date, which were from the nursery industry and a State government official. One of the commenters opposed the addition of more rust-resistant barberry varieties to the list in § 301.38-2 without the distribution of proper field identification aids to inspectors. After considering that comment, we agreed with the commenter's suggestion that identification aids could be useful for ensuring the accurate identification of the rust-resistant varieties, which would

help to prevent the spread of black stem rust. Because this comment raised an issue we believed warranted further consideration, we withdrew the April 7, 1998, proposed rule, and replaced it with an alternative proposal.

In the alternative proposal, which was published in the **Federal Register** on June 14, 2001 (66 FR 32268-32272, Docket No. 97-053-2), we proposed to amend the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species by adding the 15 varieties listed in our original proposed rule as well as an additional 17 varieties that had been submitted for listing since the publication of the original proposed rule. We also proposed to amend the regulations to require that persons who request the Animal and Plant Health Inspection Service (APHIS) to add a variety to the list of rust-resistant barberry varieties in the regulations must provide APHIS with a description of the variety, including a written description and color pictures that can be used by State nursery inspectors to clearly identify the variety and distinguish it from other varieties. As noted in the proposed rule, the nurseries that developed the 32 new rust-resistant varieties listed in the proposed rule had provided such identification guides to APHIS. Finally, we proposed to require that inspectors who issue certificates for the movement of rust-resistant barberry varieties under the regulations in § 301.38-4(b)(2) must, prior to issuing certificates, verify that the barberry varieties to be shipped match the description of the varieties.

We solicited comments concerning our June 2001 proposal for 60 days ending August 13, 2001. We received two comments by that date. They were from a national nursery and landscape association and a State department of agriculture. These letters fully supported the proposed rule. Therefore, we are not making any changes to the rule based on the comments we received. However, we are making three changes to the rule in order to clarify certain aspects of the regulations.

First, while a footnote in the definition of *rust-resistant plants* in § 301.38-1 provides a description of the testing performed to determine whether a new variety is rust-resistant, the regulations have not specifically provided that a person may request that an additional rust-resistant variety be added to the lists of rust-resistant

varieties in § 301.38–2. Similarly, while our June 2001 proposed rule contained provisions to require that a person requesting a rust-resistant variety be added to the list in § 301.38–2 provide APHIS with certain information regarding the variety, we did not specifically state that a person may request that an additional rust-resistant variety be added to that list. We do, in fact, accept requests for additions to the lists in § 301.38–2, so we have amended § 301.38–2(b) in this final rule to make that clear.

Second, in our June 2001 proposed rule, we proposed to amend § 301.38–5 by adding a new paragraph (b)(3). Under that proposed paragraph, an inspector would have to verify, prior to issuing a certificate for the interstate movement of a rust-resistant variety, that the variety matches the description provided to APHIS by the person who requested the addition of that variety to the list in § 301.38–2. Given that the existing regulations in § 301.38–5(b)(1) already provide that an inspector must determine, upon examination, that the regulated article may be moved in accordance with § 301.38–4, which would include verifying that a particular variety is eligible for movement, we have determined that our proposed amendment to § 301.38–5 is unnecessary and have removed that provision in this final rule. However, we are amending § 301.38–5(b)(1) in this final rule so that it states that an inspector must determine, upon examination, that the regulated article may be moved interstate in accordance with the regulations in the entire subpart, not just § 301.38–4. This amendment is necessary because there are requirements elsewhere in the subpart that apply to the interstate movement of regulated articles.

Third, while our June 2001 proposed rule contained provisions to require that descriptions be provided to APHIS in accordance with § 301.38–2(b) for use by State nursery inspectors as identification aids, those individuals who inspect varieties of black stem rust barberry are simply referred to as inspectors elsewhere in the regulations. The definition of an inspector, which is contained in § 301.38–1, provides that such individuals may be any APHIS employee or other person authorized by the Administrator to enforce this subpart. Because State nursery inspectors are included in this definition, we have amended § 301.38–2(b) in this final rule by removing the reference to “State nursery inspectors” and replacing it with “an inspector” in order to make the regulations more consistent.

Finally, in this final rule we have made several nonsubstantial editorial changes in the regulations for clarity.

Executive Order 12866 and Regulatory Flexibility Act

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

This final rule allows the interstate movement of 32 new varieties of *Berberis*, *Mahoberberis*, and *Mahonia* that have been determined to be resistant to black stem rust into and through States or parts of States designated as protected areas. Based on the information provided to us, we have determined that this rule will affect three or four nurseries that might propagate the new species and numerous retail sales nurseries that might purchase and resell the varieties. This action will enable those nurseries to move the species into and through protected areas and to propagate and sell the species in States or parts of States designated as protected areas.

Prior to this final rule, 123 varieties of barberry plants were listed in the regulations as rust-resistant. Of those 123 varieties, many are no longer propagated for commercial sale, as many consumers are choosing newer varieties that are horticulturally more attractive. This rule adds 32 new varieties to the list. The addition of these 32 new varieties will simply create a greater selection of barberry plant varieties from which consumers can choose. This rule could encourage innovation by allowing nurseries that develop new rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* varieties the opportunity to market those varieties in protected areas; however, there is no indication that the periodic introduction of new varieties to the market has any effect on overall sales volumes. Therefore, we do not anticipate that there will be any significant economic effect on those nurseries that might handle the new varieties.

This rule requires that persons requesting the addition of a barberry variety to the list of rust-resistant varieties in the regulations must first provide APHIS with a description of the variety, including a written description and color pictures that can be used by inspectors to clearly identify the variety and distinguish it from other varieties. This rule also requires that, prior to interstate movement, an inspector must verify that a rust-resistant variety matches the description of the variety

provided to APHIS. However, these requirements are not expected to result in any measurable cost to persons involved in the production or movement of the plants.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0186.

List of Subjects in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

2. Section 301.38–1 is amended as follows:

a. In the definition for *rust-resistant plants*, by removing the citation “§ 301.38–2(b) and (c)” and adding the

citation “§ 301.38–2 (a)(2) and (a)(3)” in its place.

b. In the definition for *rust-susceptible plants*, by removing the citation “§ 301.38–2(b) and (c)” and adding the citation “§ 301.38–2(a)(2) and (a)(3)” in its place.

c. In the definition for *regulated article*, by removing the citation “§ 301.38–2(a) through (d)” and adding the citation “§ 301.38–2(a)(1) through (a)(4)” in its place, and by removing the citation “§ 301.38–2(e)” and adding the citation “§ 301.38–2(a)(5)” in its place.

3. Section 301.38–2 is revised to read as follows:

§ 301.38–2 Regulated articles.

(a) The following are regulated articles:³

(1) All seedlings and plants of less than 2 years' growth of the genus *Berberis*.

(2) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Berberis* species.

B. aggregata x *B. wilsoniae* 'Pirate King'

B. 'Amstelveen'
B. aridocalida
B. beaniana
B. buxifolia
B. buxifolia nana
B. calliantha
B. candidula
B. candidula 'Amstelveen'
B. candidula x *B. verruculosa* 'Amstelveen'
B. cavallieri
B. chenaulti
B. chanaulti 'Apricot Queen'
B. circumserrata
B. concinna
B. coxii
B. darwini
B. dasystachya
B. dubia
B. feddeana
B. formosana
B. franchetiana
B. gagnepainii
B. gagnepaini 'Chenault'
B. gilgiana
B. gladwynensis
B. gladwynensis 'William Penn'
B. gyalica
B. heterophylla
B. horvathi
B. hybrido-gagnepaini
B. insignis
B. integerrima 'Wallichs Purple'
B. julianae
B. julianae 'Nana'
B. julianae 'Spring Glory'

B. koreana
B. koreana x *B. thunbergii* hybrid
Bailse
B. koreana x *B. thunbergii* hybrid
Tara
B. lempergiana
B. lepidifolia
B. linearifolia
B. linearifolia var. 'Orange King'
B. lologensis
B. lologensis 'Mystery Fire'
B. manipurana
B. media 'Park Jewel'
B. media 'Red Jewel'
B. mentorensis
B. pallens
B. poiretii 'BJG 073', 'MTA'
B. potanini
B. Renton
B. replicata
B. sanguinea
B. sargentiana
B. sikkimensis
B. soulieana 'Claret Cascade'
B. stenophylla
B. stenophylla diversifolia
B. stenophylla gracilis
B. stenophylla irwini
B. stenophylla nana compacta
B. taliensis
B. telomaica artispala
B. thunbergii
B. thunbergii 'Antares'
B. thunbergii argenteo marginata
B. thunbergii atropurpurea
B. thunbergii atropurpurea erecta
B. thunbergii atropurpurea erecta
Marshalli
B. thunbergii atropurpurea 'Golden Ring'
B. thunbergii atropurpurea 'Intermedia'
B. thunbergii atropurpurea 'Knight Burgundy'
B. thunbergii atropurpurea nana
B. thunbergii atropurpurea 'Redbird'
B. thunbergii atropurpurea 'Rose Glow'
B. thunbergii aurea
B. thunbergii 'Aurea Nana'
B. thunbergii 'Bagatelle'
B. thunbergii 'Bailgreen' (Jade Carousel™)
B. thunbergii 'Bailone'
B. thunbergii 'Bailone' (Ruby Carousel®)
B. thunbergii 'Bailtwo'
B. thunbergii 'Bailtwo' (Burgundy Carousel®)
B. thunbergii 'Bonanza Gold'
B. thunbergii 'Concorde'
B. thunbergii 'Crimson Pygmy'
B. thunbergii 'Cruzam' Crimson Ruby™
B. thunbergii 'Dwarf Jewel'
B. thunbergii erecta
B. thunbergii 'globe'
B. thunbergii 'golden'
B. thunbergii 'Golden Pygmy'

B. thunbergii 'Green Carpet'
B. thunbergii 'Harlequin'
B. thunbergii 'Helmond Pillar'
B. thunbergii 'Kobold'
B. thunbergii 'Lime Glow'
B. thunbergii 'Lustre Green'
B. thunbergii maximowiczii
B. thunbergii 'Midruzam' Midnight Ruby™

B. thunbergii minor
B. thunbergii 'Monlers'
B. thunbergii 'Monomb'
B. thunbergii 'Monry'
B. thunbergii 'Painter's Palette'
B. thunbergii 'Pink Queen'
B. thunbergii pluriflora
B. thunbergii 'Royal Burgundy'
B. thunbergii 'Royal Cloak'
B. thunbergii 'Sparkle'
B. thunbergii 'Thornless'
B. thunbergii 'Upright Jewel'
B. thunbergii variegata
B. thunbergii xanthocarpa
B. thunbergii x 'Bailse' (Golden Carousel®)

B. thunbergii x 'Tara' (Emerald Carousel®)

B. triacanthophora
B. triculosa
B. verruculosa
B. virgatorum
B. workingensis
B. xanthoxylon
B. x carminea 'Pirate King'
B. x frikartii 'Amstelveen'

(3) All plants, seedlings, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Mahoberberis* and *Mahonia* species, except *Mahonia* cuttings for decorative purposes:

(i) Genus *Mahoberberis*:

M. aquicandidula
M. aquifolium 'Smaragd'
M. aquisargentiae
M. miethkeana
M. x 'Magic'
(ii) Genus *Mahonia*:
M. amplexans
M. aquifolium
M. aquifolium atropurpurea
M. aquifolium compacta
M. aquifolium compacta 'John Muir'
M. aquifolium 'Donewell'
M. aquifolium 'Kings Ransom'
M. aquifolium 'Orangee Flame'
M. aquifolium 'Undulata'
M. aquifolium 'Winter Sun'
M. 'Arthur Menzies'

M. bealei
M. dictyota
M. fortunei
M. 'Golden Abundance'
M. japonica
M. japonica x *M. lomariifolia* 'Charity'
M. lomariifolia
M. nervosa
M. pinnata
M. pinnata 'Ken Hartman'

³ Permit and other requirements for the interstate movement of black stem rust organisms are contained in part 330 of this chapter.

M. piperiana
M. pumila
M. repens
M. x media 'Charity'
M. x media 'Winter Sun'

(4) All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, and seedlings from rust-susceptible species and varieties of the genera *Mahoberberis* and *Mahonia*, except *Mahonia* cuttings for decorative purposes.

(5) Any other product or article not listed in paragraphs (a)(1) through (a)(4) of this section that an inspector determines presents a risk of spread of black stem rust. The inspector must notify the person in possession of the product or article that it is subject to the provisions of this subpart.

(b) A person may request that an additional rust-resistant variety be added to paragraph (a)(2) or (a)(3) of this section. The person requesting that a rust-resistant variety be added to paragraph (a)(2) or (a)(3) of this section must provide APHIS with a description of the variety, including a written description and color pictures that can be used by an inspector to clearly identify the variety and distinguish it from other varieties. (Approved by the Office of Management and Budget under control number 0579-0186.)

§ 301.38-4 [Amended]

4. Section 301.38-4 is amended as follows:

a. In paragraph (b)(2)(i), by removing the citation "§ 301.38-2(b)" and adding the citation "§ 301.38-2(a)(2)" in its place.

b. In paragraph (b)(2)(ii), by removing the citation "§ 301.38-2(c)" and adding the citation "§ 301.38-2(a)(3)" in its place.

§ 301.38-5 [Amended]

5. In § 301.38-5, paragraph (b)(1), the citation "§ 301.38-4" is removed and the words "this subpart" are added in its place.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-4262 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00-006-3]

Importation of Fruits and Vegetables; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule published in the **Federal Register** on August 28, 2001, we amended the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. In that final rule, we also recognized the Department of Petén in Guatemala and all Districts in Belize as areas free of the Mediterranean fruit fly. The final rule contained an error in the rule portion. This document corrects that error. We are also clarifying that peppers imported from Israel under the regulations must be packed in insect-proof packaging prior to movement from approved insect-proof screenhouses in the Arava Valley.

DATES: Effective on February 22, 2002.

FOR FURTHER INFORMATION CONTACT: Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56-8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of fruit flies and other injurious plant pests that are new to or not widely distributed within the United States.

In a final rule published in the **Federal Register** on August 28, 2001 (66 FR 45151-45161, Docket No. 00-006-2), we amended the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. In that final rule, we also recognized the Department of Petén in Guatemala and all Districts in Belize as areas free of the Mediterranean fruit fly (Medfly).

One of the commodities listed as eligible for importation was peppers

from Israel. As a condition of importation, the rule required that the "peppers must be packed in insect-proof containers prior to movement from approved insect-proof screenhouses in the Arava Valley." Some regulated entities have interpreted "containers" to mean the large containers commonly used in the shipping industry. We intended to require peppers to be moved in insect-proof packaging, not shipping containers. Therefore, in order to avoid confusion, we are replacing the term "containers" with the word "packaging."

Also, in the rule portion of the final rule, there was an error in the table in § 319.56-2x, which lists fruits and vegetables for which treatment is required. The table listed papaya from Belize except for papayas grown in a Medfly-free area in Belize. Since the final rule declared all districts in Belize as areas free of Medfly, no papayas from Belize require treatment for Medfly, and there is no need to list papaya from Belize in the table in § 319.56-2x. We are correcting our error in this document.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 166, 450, 7711-7714, 7718, 7731, 7732, and 7751-7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.56-2u [Amended]

2. In § 319.56-2u, paragraph (b)(7) is amended by removing the word "containers" and adding the word "packaging" in its place.

§ 319.56-2x [Amended]

3. In § 319.56-2x, paragraph (a), the table is amended by removing the entry for Belize.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-4263 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01-094-2]

Change in Disease Status of Japan Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding Japan to the list of regions where bovine spongiform encephalopathy exists because the disease had been detected in a native-born animal in that region. The effect of the interim rule was a restriction on the importation of ruminants that have been in Japan and meat, meat products, and certain other products of ruminants that have been in Japan. The interim rule was necessary in order to help prevent the introduction of bovine spongiform encephalopathy into the United States.

EFFECTIVE DATE: The interim rule became effective on September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export,

Sanitary Issues Management Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective September 10, 2001, and published in the **Federal Register** on October 16, 2001 (66 FR 52483-52484, Docket No. 01-094-1), we amended the regulations by adding Japan to the list in § 94.18(a)(1) of regions where bovine spongiform encephalopathy (BSE) is known to exist. Due to the detection of BSE in a native-born animal in that region, the interim rule was necessary to help prevent the introduction of BSE into the United States.

Comments on the interim rule were required to be received by December 17, 2001. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988 and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by adding

Japan to the list of regions where BSE exists because the disease had been detected in a native-born animal in that region. The effect of the interim rule was a restriction on the importation of ruminants that have been in Japan and meat, meat products, and certain other products of ruminants that have been in Japan. The interim rule was necessary to help prevent the introduction of BSE into the United States.

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

The interim rule is expected to have an insignificant impact on U.S. entities because ruminants and ruminant products are either not imported from Japan or imported in very small amounts, as shown in table 1. The only category of commodities that Japan has been supplying in greater-than-negligible amounts is animal feed preparations other than dog and cat food (Harmonized Tariff Schedule 230990). For this category, Japan supplied about 5 percent of imports, by value, over the 3-year period 1998-2000. However, this level is not significant, particularly when considered in terms of the value of U.S. domestic shipments of animal feed preparations other than dog and cat food.

TABLE 1.—THE VALUE OF U.S. IMPORTS OF RUMINANTS AND RUMINANT PRODUCTS FROM JAPAN, 1998-2000

	Imports from Japan (million dollars)	Total imports (million dollars)	Percentage from Japan
Live ruminants:			
Bovine		\$3,312	0
Sheep and goats		17	0
Meat and meat byproducts:			
Beef fresh/chilled	\$2.000	2,760	0.07
Beef frozen		2,977	0
Sheep or goat meat		575	0
Edible animal offal		251	0
Salted or dried bovine meat		9	0
Other of animal origin	1.000	224	0.45
Sausage and similar prepared meat		56	0
Other bovine meat	0.006	651	<0.01
Animal feed: dogs and cats	0.074	413	0.02
Animal feed: other	36.000	681	5.29

Source: U.S. Bureau of the Census, as reported in the World Trade Atlas.

The average annual value of imports of ruminants and ruminant products from Japan between 1998 and 2000 was approximately \$12 million. This amount is less than 0.1 percent of \$19.17 billion, the value of U.S. shipments of animal feed preparations other than dog and cat food in 1997 (the year of the last

economic census conducted by the Bureau of the Census).

The Regulatory Flexibility Act requires that agencies consider the effects of their rules on small entities. An industry that could be affected by the interim rule is Other Animal Food Manufacturing (NAICS code 311119),

for which the small entity criterion is 500 or fewer employees. The 1997 Economic Census reports that all of the 1,514 Other Animal Food Manufacturing establishments had 500 or fewer employees. However, the relatively small quantity of animal feed preparations other than dog and cat food

imported from Japan would suggest that the number of these establishments affected would not be substantial, and those that are would not be affected significantly.

The interim rule's restrictions on the importation of ruminants and ruminant products and byproducts from Japan due to BSE are expected to have an insignificant effect on small entities. The only category of prohibited products for which Japan has a history of export to the United States of greater-than-negligible value is animal feed preparations other than dog and cat food. However, imports of these products from Japan comprise less than 0.1 percent of U.S. domestic shipments.

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

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.

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

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 66 FR 52483–52484 on October 16, 2001.

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.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4261 Filed 2–21–02; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T]

Credit by Brokers and Dealers; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Foreign Margin Stocks (Foreign List) is composed of certain foreign equity securities that qualify as *margin securities* under Regulation T. The Foreign List is published twice a year by the Board.

EFFECTIVE DATE: March 1, 2002.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Financial Analyst, Division of Banking Supervision and Regulation, (202) 452–2837, or Scott Holz, Senior Counsel, Legal Division, (202) 452–2966, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Listed below is a complete edition of the Board's Foreign List. The Foreign List was last published on August 24, 2001 (66 FR 44525), and become effective September 1, 2001.

The Foreign List is composed of foreign equity securities that qualify as margin securities under Regulation T by meeting the requirements of § 220.11(c) and (d). Additional foreign securities qualify as margin securities if they are deemed by the Securities and Exchange Commission (SEC) to have a “ready market” under SEC Rule 15c3–1 (17 CFR 240.15c3–1) or a “no-action” position issued thereunder. This includes all foreign stocks in the FTSE World Index Series.

It is unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on the Foreign List is evidence that the Board or the SEC has in any way passed upon the merits of, or given approval to, such security or any transactions therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with the Foreign List or the stocks thereon shall be an unlawful representation.

There are not additions to the Foreign List. The following six stocks are being removed because they no longer substantially meet the provisions of § 220.11(d) of Regulation T:

Hitachi Transport System, Ltd., ¥50 par common
Hokuetsu Bank, Ltd., ¥50 par common
Kiyo Bank, Ltd., ¥50 par common
Max Co., Ltd., ¥50 par common
Ryosan Co., Ltd., ¥50 par common
Yamanashi Chuo Bank, Ltd., ¥50 par common

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public

participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Foreign List specified in § 220.11(c) and (d). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in a part upon the composition of the Foreign List as soon as possible. The Board has responded to a request by the public and allowed approximately a one-week delay before the Foreign List is effective.

List of Subjects in 12 CFR Part 220

Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 220.2 and 220.11, there is set forth below a complete edition of the Foreign List.

Japan

Akita Bank, Ltd., ¥50 par common
Aomori Bank, Ltd., ¥50 par common
Asatsu–DK Inc., ¥50 par common
Bandai Co., Ltd., ¥50 par common
Bank of Nagoya, Ltd., ¥50 par common
Chudenko Corp., ¥50 par common
Chugoku Bank, Ltd., ¥50 par common
Clarion Co., Ltd., ¥50 par common
Daihatsu Motor Co., Ltd., ¥50 par common
Dainippon Screen Mfg. Co., Ltd., ¥50 par common
Denki Kagaku Kogyo, ¥50 par common
Eighteenth Bank, Ltd., ¥50 par common
Futaba, Corp., ¥50 par common
Futaba Industrial Co., Ltd., ¥50 par common
Higo Bank, Ltd., ¥50 par common
Hitachi Software Engineering Co., Ltd., ¥50 par common
Hokkoku Bank, Ltd., ¥50 par common
Hokuetsu Paper Mills, Ltd., ¥50 par common
Iyo Bank, Ltd., ¥50 par common
Japan Airport Terminal Co., Ltd., ¥50 par common
Juroku Bank, Ltd., ¥50 par common
Kagoshima Bank, Ltd., ¥50 par common
Kamigumi Co., Ltd., ¥50 par common
Katokichi Co., Ltd., ¥50 par common
Keisei Electric Railway Co., Ltd., ¥50 par common
Keiyo Bank, Ltd., ¥50 par common
Komori Corp., ¥50 par common
Konami Co., Ltd., ¥50 par common
Kyowa Exeo Corp., ¥50 par common
Matsushita Seiko Co., Ltd., ¥50 par common
Michinoku Bank, Ltd., ¥50 par common
Musashino Bank, Ltd., ¥50 par common

Namco, Ltd., ¥50 par common
 Nichicon Corp., ¥50 par common
 Nihon Unisys, Ltd., ¥50 par common
 Nippon Comsys Corp., ¥50 par common
 Nishi-Nippon Bank, Ltd., ¥50 par common
 Nishi-Nippon Railroad Co., Ltd., ¥50 par common
 Nissan Chemical Industries, Ltd., ¥50 par common
 Ogaki Kyoritsu Bank, Ltd., ¥50 par common
 Q.P. Corp., ¥50 par common
 Rinnai Corporation, ¥50 par common
 Sagami Railway Co., Ltd., ¥50 par common
 Sakata Seed Corp., ¥50 par common
 Santen Pharmaceutical Co., Ltd., ¥50 par common
 Shimadzu Corp., ¥50 par common
 Shimamura Co., Ltd., ¥50 par common
 Sumitomo Rubber Industries, Ltd., ¥50 par common
 Taiyo Yuden Co., Ltd., ¥50 par common
 Takara Standard Co., Ltd., ¥50 par common
 Takuma Co., Ltd., ¥50 par common
 Toho Bank, Ltd., ¥50 par common
 Toho Gas Co., Ltd., ¥50 par common
 Tokyo Ohka Kogyo Co., Ltd., ¥50 par common
 Uni-Charm Corp., ¥50 par common
 Ushio, Inc., ¥50 par common
 Yamaha Motor Co., Ltd., ¥50 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), February 19, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02-4265 Filed 2-21-02; 8:45 am]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 206

Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, Trade Diversion, and Review of Relief Actions

AGENCY: International Trade Commission.

ACTION: Interim rules with request for comments.

SUMMARY: The United States International Trade Commission (Commission) is amending its rules of practice and procedure on an interim basis and requests comments on the amendments. These amendments are necessary to implement provisions of Public Law 106-286 that require the Commission to conduct new types of investigations of market disruption or trade diversion and reviews of relief actions. The intended effect of the amendments is to establish procedures for the new kinds of investigations and reviews that closely track the procedures for investigations and

reviews under certain other existing laws.

DATES: *Effective Date:* February 22, 2002.

Comment Date: Comments are due by 5:15 p.m. on April 23, 2002.

ADDRESSES: A signed original and 8 copies of each set of comments should be mailed or hand-delivered to Marilyn R. Abbott, Acting Secretary, United States International Trade Commission, 500 E Street, SW, Room 112, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: P. N. Smitley, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202-205-3086. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding the interim amendments the Commission is making to its Rules of Practice and Procedure. The preamble begins with a discussion of the background of the rulemaking, then explains why an interim rulemaking procedure was adopted, provides an overview and a section-by-section analysis of the interim amendments, and ends with a regulatory analysis addressing government-wide statutes and issuances on rulemaking. The Commission encourages members of the public to comment—in addition to any other comments they wish to make on the rules amendments—on whether the interim amendments are in language that is sufficiently plain for users of the rules to understand.

Background

Public Law 106-286 [H.R. 4444], 114 Stat. 880, was signed by the President on October 10, 2000. Section 103(a) of the law added new sections 421 and 422 to the Trade Act of 1974 (19 U.S.C. 2451 and 2451a) that require the Commission to conduct new kinds of investigations and reviews of relief actions.

New section 421(b) of the Trade Act requires the Commission to investigate, in specified circumstances, “to determine whether products of the People’s Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.”

The President may provide relief, under section 421(a), in the form of increased duties and/or other import restrictions with respect to the product being imported from the People’s Republic of China. He will grant such relief to the extent and for the period that he considers necessary to prevent or remedy the market disruption. Starting six months after the relief first takes effect, the President may request a report from the Commission, under section 421(n)(1), on the probable effect that modification, reduction, or termination of the relief would have on the relevant domestic industry. Section 421(n)(3) provides that when the President issues relief under section 421(a), the Commission must collect such data as is necessary to enable it to respond rapidly to a request by the President under section 421(n)(1).

Within a specified time before the relief is to terminate, section 421(o) requires the Commission to investigate, at the request of the President or in response to a petition on behalf of the industry concerned, to determine whether action under section 421 continues to be necessary to prevent or remedy market disruption.

The new section 422(b) of the Trade Act requires the Commission to investigate, in appropriate circumstances, to determine whether an action of a type described in section 422(c) “has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States.” Section 422(c) indicates that an “action” for purposes of section 422(b) is an action—(1) By the People’s Republic of China to prevent or remedy market disruption in a WTO [World Trade Organization] member other than the United States; (2) by a WTO member other than the United States to withdraw concessions under the WTO Agreement or otherwise to limit imports to prevent or remedy market disruption; (3) by a WTO member other than the United States to apply a provisional safeguard within the meaning of the product-specific safeguard provision of the Protocol of Accession of the People’s Republic of China to the WTO; or (4) any combination of actions described in paragraphs (1) through (3).

The President determines, pursuant to section 422(h), what action to take to prevent or remedy the trade diversion or threat thereof. Section 422(j) requires the Commission to review the continued need for action taken under section 422(h) if the World Trade Organization (WTO) member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the

People's Republic of China pursuant to consultation referred to in section 422(a). Specifically, the Commission must determine whether a significant diversion of trade continues to exist. After receiving the Commission's report on that subject, the President will determine whether to modify, withdraw, or keep in place the action taken under section 421(h).

The Procedure for Adopting the Interim Amendments

The Commission ordinarily promulgates amendments to the Code of Federal Regulations in accordance with the rulemaking procedure in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). That procedure entails publishing a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed amendments, considering the public comments in deciding on the final content of the amendments, and publishing the final amendments at least 30 days prior to their effective date. In this instance, however, the Commission is amending its rules in 19 CFR part 206 on an interim basis, effective upon publication of this notice in the **Federal Register**.

The Commission's authority to adopt interim amendments without following all steps listed in section 553 of the APA is derived from section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) and section 553 of the APA.

Section 335 of the Tariff Act authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties. The Commission has determined that the need for interim rules is clear in this instance. The new sections 421 and 422 of the Trade Act require the Commission to conduct new kinds of investigations and reviews. Rulemaking is essential for orderly administration of the new statutory provisions. Since the People's Republic of China acceded to the WTO on December 11, 2001, it is imperative that implementing rules be adopted as quickly as possible.

Section 553(b) of the APA allows an agency to dispense with publication of a notice of proposed rulemaking when the following circumstances exist: (1) The rules in question are interpretive rules, general statements of policy, or rules of agency organization, procedure or practice; or (2) the agency for good cause finds that notice and public comment on the rules are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates that finding and the reasons therefor into the rules adopted by the agency.

Section 553(d)(3) of the APA allows an agency to dispense with the publication of notice of final rules at least thirty days prior to their effective date if the agency finds that good cause exists for not meeting the advance publication requirement and the agency publishes that finding along with the rules.

In this instance, the Commission has determined that the requisite circumstances exist for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of Commission rules. For purposes of invoking the section 553(b) exemption from publishing a notice of proposed rulemaking that solicits public comment, the Commission finds that the interim amendments to part 206 are "agency rules of procedure and practice." Moreover, the People's Republic of China's accession to the WTO on December 11, 2001, a date that could not be predicted sufficiently far in advance, makes the establishment of rules a matter of urgency. Hence, it clearly would have been impracticable for the Commission to comply with the notice of proposed rulemaking and public comment procedure.

For the purpose of invoking the section 553(d)(3) exemption from publishing advance notice of the interim amendments to part 206 at least thirty days prior to their effective date, the Commission finds that the fact that the People's Republic of China acceded to the WTO on December 11, 2001 makes such advance publication impossible and constitutes good cause for not complying with that requirement.

The Commission recognizes that interim rule amendments should not respond to anything more than the exigencies created by the new legislation. Each interim amendment to part 206 accordingly falls into one or more of the following categories: (1) A revision of a preexisting rule to make it applicable to one or more of the new kinds of investigations or reviews of relief actions; (2) clarification of the manner in which a preexisting rule is to be applied to one or more of the new kinds of investigations or reviews; or (3) a new rule covering a matter addressed in the new legislation but not covered by a preexisting rule.

After taking into account all comments received and the experience acquired under the interim amendments, the Commission will replace them with final amendments promulgated in accordance with the notice, comment, and advance publication procedure prescribed in section 553 of the APA.

Overview of the Interim Amendments

Until the publication of this notice, part 206 of the Commission's rules consisted of subpart A, which set out general requirements applicable to all investigations covered by the part, and subparts B–F, each of which established procedures for a particular type of investigation.

Among other things, the Commission is amending subpart A to extend the coverage of part 206 to investigations and reviews of relief actions under the new section 421 or 422 of the Trade Act.

Before this notice was published, subpart E of part 206 covered only market disruption investigations under section 406(a) of the Trade Act of 1974. The new investigations under section 421(b) also will address market disruption and will be similar, though not identical, to the investigations under section 406(a). For that reason, the Commission is amending subpart E to cover investigations under section 421(b) (in addition to investigations under section 406(a)). The Commission also is amending subpart E to cover investigations under section 421(o) on whether action under section 421 continues to be necessary to prevent or remedy market disruption.

The new investigations under section 422(b) concerning trade diversion—and the reviews under section 422(j) on whether there is a continued need for action taken under section 422(h)—do not so closely fit an existing subpart of part 206. For that reason, the Commission is adding a new subpart G to cover investigations under section 422(b) and reviews under section 422(j). Nevertheless, the procedures in subpart G closely track those in other subparts of part 206.

The Heading for Part 206

As noted, the new section 422 of the Act requires the Commission to conduct investigations of and reviews of relief actions for trade diversion. The Commission is therefore amending the heading of part 206 to include a reference to trade diversion.

The Table of Contents

Among other changes, the Commission is amending the heading of section 206.3 in subpart A of part 206. In subpart E, the Commission also is revising the heading of section 206.43, adding a new section 206.44, redesignating the existing sections 206.44 and 206.45 as 206.45 and 206.46, and adding a new section 206.47. Finally, the Commission is adding a new subpart G. The Commission is therefore amending the table of contents for part 206 to reflect those changes.

The Authority Citation

The Commission is amending the authority citation to part 206 to include citations to 19 U.S.C. 2451 and 2451a (the new sections 421 and 422 of the Trade Act).

Section-by-Section Analysis of the Interim Amendments

Subpart A—General

Section 206.1

Section 206.1 describes the applicability of part 206. The first sentence of that section lists the statutes under which the Commission performs functions and duties in accordance with part 206. The Commission is amending that sentence to include a reference to the Commission's functions and duties under the new sections 421 and 422 of the Trade Act. The third sentence of section 206.1 describes the kinds of investigations or reviews that are covered by subpart B, C, D, or E of part 206. The Commission is amending that sentence to state that subpart E of part 206 provides rules governing petitions and investigations under section 421 of the Trade Act (as well as petitions and investigations under section 406 of that Act). Finally, the Commission is adding a sentence to the end of section 206.1 stating that the new subpart G of part 206 provides rules applying to the Commission's functions and duties under section 422 of the Trade Act.

Section 206.2

The first sentence of section 206.2 states that the Commission will institute an investigation under part 206 in response to a petition, request, resolution, or motion as described in the applicable statute. The Commission is amending that sentence by adding the new sections 421 and 422 of the Trade Act to the list of statutes under which the Commission may institute an investigation.

The second sentence in section 206.2 states that the first page of each petition or request must identify the statute and the subpart of part 206 under which the petition or request is being filed. The Commission is amending that sentence to add sections 421(b) and (o) of the Trade Act to the list of statutes and the new subpart G to the list of subparts.

Section 206.3

Paragraph (a) of section 206.3 requires the Commission to promptly institute an investigation and to publish notice thereof in the **Federal Register** upon receipt of a properly filed petition or request under part 206. That obligation would apply to a petition or request

under the new section 421(b) or (o) or the new section 422(b) of the Trade Act. The Commission also is required, however, in appropriate circumstances to institute an investigation and to publish a notice in the **Federal Register** in response to a resolution by the Senate Committee on Finance or the House Committee on Ways and Means or on the Commission's own motion. The Commission is amending paragraph (a) of section 206.3 by adding a sentence to the end of that paragraph to provide for those contingencies.

Paragraph (b) of section 206.3 specifies the required content of each **Federal Register** notice published pursuant to paragraph (a), that is, following receipt of a properly filed request or petition. The Commission is amending paragraph (b) by adding a sentence to the end of that paragraph stating that the notice will provide the same kind of information when the Commission institutes an investigation in response to a resolution or on the Commission's own motion.

Paragraph (c) of section 206.3 indicates that the Commission will make a nonconfidential copy of each petition or request available for public inspection. The Commission is amending paragraph (c) to state that the Commission will make each petition, request, resolution, or Commission motion available for public inspection, minus any confidential business information. Because of that change, the Commission also is amending the heading of section 206.3 to eliminate the reference to the availability of petitions for public inspection. Since the Commission will make each petition, request, resolution, or Commission motion available for such inspection, the revised portion of the heading will simply consist of the words "availability for public inspection."

Section 206.4

Section 206.4 currently requires the Commission to promptly transmit copies of a petition or request and the resulting notice of investigation to the Office of the United States Trade Representative, the Secretary of Commerce, the Secretary of Labor, and other Federal agencies directly concerned. Those provisions do not match the statutory notification requirements or actual Commission practice for some types of investigations that are currently subject to provisions of part 206 (e.g., investigations under section 204(c) of the Trade Act or section 302(b) of the North American Free Trade Agreement Implementation Act). In addition, the existing text of section 206.4 is not consistent with the

notification requirements of the new section 421(b)(4) of the Trade Act, under which the Commission must provide the President, the United States Trade Representative (USTR), the House Committee on Ways and Means, and the Senate Committee on Finance with nonconfidential copies of each petition, request, or resolution filed under section 421(b). For those reasons, the Commission is revising section 206.4 by deleting the existing text and replacing it with the statement that for each investigation subject to provisions of part 206, the Commission will transmit copies of the petition, request, resolution, or motion as required by the relevant statute, along with a copy of the notice of investigation.

Section 206.5

Paragraph (b) of section 206.5 provides for public hearings on injury and remedy in investigations conducted under subpart C, D, or E of part 206. The Commission is amending paragraph (b) on an interim basis to have it cover hearings in investigations under subpart C, D, E, or G. The specific changes that the Commission is making are described below.

First, the Commission is amending the heading of paragraph (b) to include investigations conducted under the new subpart G. Since the Commission is not likely to conduct a particular investigation under each of subparts C, D, E, and G, the revised heading refers to investigations under subpart C, D, E, or G.

Next, the Commission is amending the text of paragraph (b). The text currently states that the Commission will conduct a hearing on the subject of injury and remedy in each investigation instituted under subparts C, D, and E. Subpart E currently covers investigations under section 406(a) of the Trade Act. The Commission is amending paragraph (b) of section 206.5 to state that it will conduct a hearing on injury and remedy in each investigation instituted under subpart C or D or section 406(a) of the Trade Act and subpart E.

Subpart E, as amended in this notice, will cover investigations under section 421(b) or (o) of the Act in addition to investigations under section 406(a). Section 421 is comparable to section 406 in many respects. Moreover, material injury or the threat thereof to a domestic industry is an element of section 421(b). (See section 421(d) regarding the existence and cause of "market disruption" for purposes of section 421.) Material injury to a domestic industry or a threat thereof also would be relevant in an

investigation under section 421(o) to determine whether the Presidential action taken under section 421(k) continues to be necessary to prevent or remedy market disruption.

Section 421 of the Act is a new statute however. For that reason, the Commission prefers not to adopt a rule, at this time, that would restrict the subject matter of public hearings in investigations under section 421(b) or (o) to "injury and remedy." The Commission is therefore adding a sentence to paragraph (b) of section 206.5 stating that the Commission will conduct a hearing in each investigation instituted under section 421(b) or (o) of the Trade Act and subpart E, and that the **Federal Register** notice announcing the investigation will list the date, time, and location of the hearing, the subjects to be addressed, and the procedures to be followed, e.g., the procedure to be followed by each person who wishes to appear at the hearing.

The new subpart G of part 206 will cover, among other things, investigations under section 422(b) of the Trade Act. The principal subjects of those investigations are (1) whether an action described in section 422(c) of the Act has caused or threatens to cause a significant diversion of trade into the domestic market of the United States and (2) what relief, if any, the Commission should recommend to the President. Unlike market disruption under section 421 of the Act, trade diversion under section 422 does not include the element of material injury or threat thereof to a domestic industry (compare section 422(d)(1) of the Act to sections 421(c)(1) and (2) and (i)(1)(A)).

The Commission is therefore amending paragraph (b) of section 206.5 to say that for each investigation under section 421(b) or (o) or section 422(b) of the Trade Act, the **Federal Register** notice announcing the investigation will specify the date, time, and location of the public hearing, the subjects to be addressed, and the procedures to be followed.

Section 206.6

Paragraph (a) of section 206.6 provides a general description of the required content of Commission reports to the President on investigations conducted under part 206.

Paragraph (a)(2) discusses the Commission's obligation to provide recommendations for action in the report after reaching an affirmative determination in the investigation.

The Commission is amending paragraph (a)(2) to reflect the Commission's obligation to provide recommendations for action in the

Commission report after reaching an affirmative determination under section 421(b)(1) or (i)(1) or section 422(b) of the Act—or a determination that the President and the USTR may regard as affirmative under section 421(e) or (i)(1) or section 422(e)(1).

Paragraph (b) of section 206.6 describes additional findings and information that the Commission will include in reports to the President concerning certain kinds of investigations conducted under Part 206. Paragraph (b)(1) applies to determinations under section 202(b) of the Trade Act. Paragraph (b)(2) applies to determinations under section 302(b) of the NAFTA Implementation Act. The Commission is adding a new paragraph (b)(3) concerning the kinds of additional findings and information that will be included in reports concerning determinations under section 421(b) or 422(b) of the Trade Act. The content of that new paragraph is based on the Commission's obligation to consider certain factors, pursuant to section 421(g)(2)(D) or 422(e)(3)(iv), in reaching a determination under section 421(b) or 422(b) of the Act.

Section 206.7

Paragraph (a) of section 206.7 currently provides that, except for limited disclosure under an administrative protective order in accordance with section 206.17, the Commission will not release confidential business information unless the submitter either consents or had notice, when the information was submitted, that the Commission might release it. Paragraph (a) also states that when appropriate, the Commission will provide confidential business information in reports to the President and the USTR, but will release expurgated copies of the reports to the public. Paragraph (a) currently applies only to investigations conducted under subpart B, C, D, or F of part 206.

Paragraph (a) of section 206.7 implements sections 202(a)(8) and (i) of the Trade Act concerning the treatment of confidential business information. Section 202(a)(8) states that the procedures concerning the release of such information that are set forth in section 332 of the Tariff Act (19 U.S.C. 1332) shall apply with respect to information received by the Commission in the course of certain other kinds of investigations. Section 202(i) of the Trade Act states that the Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who

are parties to an investigation under section 202 of the Act. Sections 202(a)(8) and (i) of the Trade Act apply to investigations under section 421 or 422 of the Act. See sections 421(b)(3) and 422(b)(3).

Investigations under section 421(b) or (o) of the Act will be conducted in accordance with amended subpart E of part 206, while investigations under section 422(b) will be governed by the new subpart G. The Commission is therefore amending the first sentence in paragraph (a) of section 206.7 to include references to those investigations and subparts.

(See also the discussion below concerning the interim amendments to section 206.47, regarding the limited disclosure of confidential business information under an administrative protective order in investigations under section 421(b) or (o) of the Trade Act. Also see the discussion of the new section 206.66 regarding such disclosures in investigations under section 422(b) of the Act and the omission of such disclosures in reviews under section 422(j).)

Subpart E—Investigations for Relief From Market Disruption

Section 206.41

Section 206.41 describes the applicability of subpart E of part 206. The first sentence of that section makes subpart F applicable solely to investigations under section 406 of the Trade Act. The Commission is amending that sentence to state that subpart E applies to investigations under section 421(b) or (o) of the Trade Act as well as investigations under section 406(a) of the Act.

Section 206.42

Section 206.42 tells who may file a petition for an investigation governed by subpart E of part 206.

Because section 206.42 only covers petitions under section 406(a) of the Trade Act, the Commission is amending that section by designating the original text paragraph (a) of section 206.42, but revising it to explicitly apply to petitions under section 406(a) of the Act. Also, because of the broadened applicability of subpart E (as described above in the analysis of section 206.41), the Commission is adding a new paragraph (b) to section 206.42 that tells who may file a petition under section 421(b) or (o) of the Trade Act.

Section 206.43

Section 206.43 describes the required content of a petition for an investigation governed by subpart E of part 206. The

Commission is revising the heading of section 206.43 to indicate that this section pertains solely to petitions under section 406(a) of the Trade Act. In the first sentence of the introductory text in section 206.43, the Commission is changing the words “a petition under this subpart E” to “a petition under section 406(a) of the Trade Act.” The required content of a petition under the new section 421(b) or (o) of the Trade Act will be set forth in a new section 206.44, as described below.

New Section 206.44

The Commission is adding a new section 206.44 to subpart E of part 206, describing the required content of a petition under section 421(b) or (o) of the Trade Act. As the legislative history of section 421 (*See* H.R. Rept. No. 632, 106th Cong., 2d Sess. 16–17 (May 22, 2000)) points out, the provisions of that section are modeled after section 406 of the Act, but with certain modifications to conform to the language of the U.S.-China Bilateral Trade Agreement. The Commission accordingly has modeled the new section 206.44 in part after section 206.43 governing the required content of a petition under section 406(a) of the Act. But the new section 206.44 imposes requirements based on section 421 of the Act.

Paragraph (a) of the new section 206.44 imposes the basic requirement that the petition must provide specific information to support the claim that products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. Section 421 imposes stringent deadlines for the Commission to make the required determination(s). Hence, the petition may become a primary source of data (in an investigation based on a petition). For that reason, paragraph (a) of the new section 210.44 in subpart E of part 206 requires the petition to provide the information specified in paragraphs (a) through (i) of that section, to the extent that such information is reasonably available to the petitioner with due diligence.

Paragraph (b) of the new section 206.44 tells what product description data the petition must contain, and is modeled after paragraph (a) of section 206.43 governing the product description in a petition under section 406(a) of the Trade Act.

A petition under section 421(b) of the Act must be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers,

which is representative of an industry. See sections 421(b)(1) and 202(a) of the Act. Hence, paragraph (c) of the new section 206.44 specifies what data the petition must furnish to establish that the petitioner satisfies the representativeness requirement. Paragraph (c) corresponds to paragraph (b) of section 206.43, concerning the representativeness of a petition under section 406(a) of the Act.

Paragraph (d) of the new section 206.44 specifies the import data to be furnished in a petition under section 421(b) of the Trade Act. Paragraph (d) is similar to paragraph (c) of section 206.43, which describes the import data to be furnished in a petition under section 406(a) of the Act. The difference is that owing to the language of section 421(c)(1) of the Act, paragraph (d) of the new section 206.44 requires the submission of information about whether imports are increasing absolutely or relatively (instead of absolutely or relative to domestic production).

Paragraph (e) of the new section 206.44 specifies the domestic production data to be submitted in a petition under section 421(b) of the Trade Act. Paragraph (e) matches paragraph (d) of section 206.43, which describes the domestic production data to be furnished in a petition under section 406(a) of the Act.

Paragraph (f) of the new section 206.44 specifies the injury data to be submitted in a petition under section 421(b) of the Trade Act. Paragraph (f) is similar to paragraph (e) of section 206.43, which describes the data showing injury that must be included in a petition under section 406(a) of the Act.

Paragraph (g) of the new section 206.44 specifies the injury causation data to be submitted in a petition under section 421(b) of the Trade Act. Paragraph (g) differs from paragraph (f) of section 206.43, regarding the cause of injury as described in a petition under section 406(a) of the Act. Owing to differences between factors the Commission must consider under section 421(d)(1) of the Act and those it must consider under section 406(e)(1)(C) of the Act, paragraph (g) of the new section 206.44 does not indicate that the petition should include evidence of disruptive pricing practices or other efforts to unfairly manage trade patterns (in addition to evidence of the effect of the subject imports on prices in the United States). Instead, paragraph (g) requires the submission of data about the effect that the product imported from the People's Republic of China has on prices in the United States for like or

directly competitive articles—which is consistent with section 421(d)(3) of the Act.

A petition under section 421(b) of the Trade Act may allege that critical circumstances exist and may request that provisional relief be provided with respect to the product identified in the petition. See section 421(i) of the Act. For that reason, paragraph (h) of the new section 206.44 states that a petition alleging critical circumstances must provide information demonstrating that delay in taking action under section 421 of the Act would cause damage to the relevant domestic industry that would be difficult to repair.

Paragraph (i) of the new section 206.44 states that the petition must include a statement describing the import relief sought and the purpose thereof.

Paragraph (j) of the new section 206.44 describes the required content of a petition under section 421(o) of the Trade Act. A petition under section 421(o) must be filed “on behalf of the industry concerned.” Therefore, paragraph (j) of the new section 206.44 requires the petition to provide evidence of representativeness, as described in paragraph (b) of that section. The new paragraph (j) also states that the petition must contain specific information supporting the petitioner's claim that action under section 421 of the Trade Act continues to be necessary to prevent or remedy market disruption. Paragraph (j) also tells the petitioner that the information provided should take into account factors such as those specified in paragraphs (c)–(g) of section 206.44. Owing to the short time provided for the Commission to make its determination under section 421(o), the petition may become a key source of information. For that reason, paragraph (j) of section 206.44 states that, to comply with paragraph (j), the petition should contain all relevant information reasonably available to the petitioner with due diligence.

Existing Section 206.44—Redesignated as Section 206.45

Existing section 206.44 addresses the time by which the Commission must furnish its report to the President in an investigation under section 406(a) of the Trade Act. Because the Commission is adding a new section 206.44 as discussed above, the Commission is redesignating existing section 206.44 as section 206.45. The Commission also is redesignating the existing provisions of section 206.44 as paragraph (a) of section 206.45 and explicitly limiting them to the issuance of a report to the

President in an investigation under section 406(a) of the Trade Act. The Commission is adding a new paragraph (b) concerning the deadlines for submitting its determination and report to the President and the USTR in an investigation under section 421(b) of the Trade Act. A new paragraph (c) states the Commission's deadlines for issuing a determination and report on critical circumstances, pursuant to section 421(i) of the Act, when the petition in an investigation under section 421(b) alleges that such circumstances exist and requests provisional relief. Finally, the Commission is adding a new paragraph (d) concerning the time by which the Commission must issue its determination and report in an investigation under section 421(o) of the Act.

Existing Section 206.45—Redesignated as Section 206.46

Existing section 206.45 states that the Commission will issue a nonconfidential version of the report issued in an investigation under subpart E and will publish a summary of it in the **Federal Register**. Because the Commission is adding a new section 206.44 to subpart E as discussed above, the existing section 206.45 will become section 206.46. The Commission is making no changes in the substance of this rule.

Section 206.47

Section 421(b)(3) of the Trade Act states that sections 202(a)(8) and (i) of the Act, relating to the treatment of confidential business information, shall apply to investigations conducted under section 421. The provisions concerning confidential business information in investigations under section 202(b) of the Act are set forth in sections 206.7 and 206.17 of part 206.

Section 206.7 applies to investigations under section 421(b) or (o) of the Trade Act as a result of the Commission's interim amendments to sections 206.7 and 206.41.

The Commission is adding a new section 206.47 to provide for the limited disclosure of confidential business information under an administrative protective order, as described in section 206.17, in investigations under section 421(b) or (o) of the Act.

Subpart G—Investigations for Action in Response to Trade Diversion; Reviews of Action Taken

As noted in the overview, the Commission is adding a new subpart G concerning investigations under section 422(b) and reviews under section 422(j) of the Trade Act.

Section 206.61

Section 206.61 describes the applicability of subpart G and cross-references relevant rules of general application.

Section 206.62

Section 206.62 states who may file a petition for an investigation under section 422(b) of the Trade Act. This section is based on section 422(b)(1) of the Act, which states that a petition may be filed by an entity described in section 202(a) of the Act.

Section 206.63

Section 206.63 describes the required content of a petition for an investigation under section 422(b) of the Trade Act. It consists of an introductory paragraph and paragraphs (a)–(f).

The introductory paragraph of the new section 206.63 imposes the basic requirement that the petition must provide specific information to support the claim that an action described in section 422(c) has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States. Because of the stringent deadline for the Commission to make its determination under section 422(b)(1) of the Act, the petition may become a primary source of information. The introductory paragraph of section 206.63 accordingly requires the petition to furnish the information specified in the introductory paragraph and paragraphs (a)–(f) of that section, to the extent that such information is reasonably available to the petitioner with due diligence.

Among other things, paragraph (a) directs the petitioner to submit data concerning the imported product at issue. A petition under section 422(b) must be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. See sections 422(b)(1) and 202(a) of the Act. Hence, paragraph (a) of the new section 206.63 also requires the petition to provide the name and description of the domestic product concerned, while paragraph (b) requires the submission of evidence of the petitioner's representativeness.

Paragraph (c) indicates that the petition must contain a description of the action, as defined in section 422(c) of the Trade Act, that allegedly has caused or threatens to cause a significant diversion of trade into the domestic market of the United States.

Paragraph (d) requires the petition to provide information about the factors enumerated in section 422(d)(1) of the

Act, which the Commission must consider in determining whether significant diversion or the threat thereof exists for purposes of section 422.

Section 422(d)(2) of the Trade Act directs the Commission to examine the changes in imports into the United States from the People's Republic of China since the time that the WTO member commenced the investigation that led to a request for consultations described in section 422(a) of the Act. In some cases, the United States Customs Service will be required by law to monitor the subject imports and to make data from such monitoring available to the Commission upon request. See section 422(a) of the Act. However, the Commission has drafted paragraph (e) of section 206.63 to require the petition to provide any information available to the petitioner that will help the Commission fulfill its statutory obligation to examine the changes in imports.

Finally, paragraph (f) of section 206.63 states that the petition must contain a statement describing the import relief desired under section 422(h) and the purpose thereof.

Section 206.64

Section 206.64 addresses the institution of an investigation under section 422(b) or a review under section 422(j) of the Trade Act. Section 206.64 also addresses the Commission's publication of a **Federal Register** notice concerning the investigation or review and the fact that the Commission will make the petition, request, resolution, or motion that triggered the investigation or the notification document that triggered the review available for public inspection, except for any confidential information contained therein.

Section 206.65

Section 206.65 governs public hearings in investigations under section 422(b) and reviews under section 422(j) of the Trade Act. Section 422(b)(2) of the Act makes public hearings mandatory for investigations under section 422(b). Paragraph (a) section 206.65 states that hearings for those investigations are provided for in paragraph (b) of section 206.5 (discussed above).

Section 206.66

Section 422(b)(3) of the Trade Act states that the provisions of sections 202(a)(8) and (i) of the Act, relating to confidential business information, shall apply to investigations conducted under section 422. The provisions governing the treatment of such information in

investigations under section 202(b) of the Act are set forth in sections 206.7 and 206.17 of part 206.

Section 206.7 applies to investigations under section 422(b) of the Act as a result of the Commission's interim amendments to sections 206.7 and 206.41.

The Commission is adding a new section 206.66 to provide for the limited disclosure of confidential business information under an administrative protective order, as described in section 206.17, in investigations under section 422(b).

As noted, section 422(b)(3) of the Act states that the provisions of sections 202(a)(8) and (i) of the Act, relating to the treatment of confidential business information, "shall apply to *investigations* conducted under this section [422] [*italics added*]." Section 422(j) characterizes a review under section 422(j) as a "review of circumstances." The Commission notes further that while it has 60 days to make its determination in such a review (as opposed to 45 days for making a determination in an investigation under section 422(b)), section 422(j) of the Act does not mandate the kinds of procedures that apply to an investigation under section 422(b), namely, the publication of a **Federal Register** notice of institution and the conduct of a public hearing. For those reasons, the Commission did not draft the new section 206.66 to provide in reviews for the limited disclosure of confidential business information under an administrative protective order, as described in section 206.17.

Section 206.67

Paragraph (a) of section 206.67 lists the deadlines for issuance of the Commission's determination and report to the President and the USTR in an investigation under section 422(b) of the Trade Act. Paragraph (b) lists the deadlines for issuing the determination and report in a review under section 422(j) of the Act.

Section 206.68

Section 206.68 governs the publishing of the Commission reports and notice concerning such report in an investigation under section 422(b) or a review under section 422(j) of the Trade Act. This rule states that upon making a report to the President of the results of such investigation or a review, the Commission will make the report public (with the exception of information which the Commission determines to be confidential) and will publish notice of the report in the **Federal Register**.

Regulatory Analysis

The Regulatory Flexibility Act

The Commission notes that the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) is inapplicable to this rulemaking because it is not one for which a notice of proposed rulemaking is required under section 553(b) of the APA. (See the discussion above concerning the procedure for adopting the interim amendments.)

Even if the Regulatory Flexibility Act applied, the Commission's interim amendments to part 206 are not likely to affect small entities in the manner that the Act is intended to prevent. The interim amendments are agency rules of procedure and practice. The procedures for the new types of proceedings are similar to those for existing types. Moreover, the Commission has no reason to believe, at this point, that a majority of the petitioners will be small entities. For those reasons, the Commission certifies, pursuant to 5 U.S.C. 605(b), that the interim rule amendments in this notice will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Commission has determined that the interim amendments to part 206 do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and thus do not constitute a significant regulatory action for purposes of the Executive Order. As noted, they merely respond to exigencies created by the new legislation. The interim amendments to part 206 will not result in (1) an annual effect on the economy of \$100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Executive Order 13132

The interim amendments to part 206 of the Commission's rules do not contain federalism implications warranting the preparation of a Federalism Assessment pursuant to Executive Order 13132 (64 FR 43255, Aug. 4, 1999).

The Unfunded Mandates Reform Act of 1995

The interim amendments to part 206 of the Commission's rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.).

The Small Business Regulatory Enforcement Fairness Act of 1996

The interim amendments to part 206 of the Commission's rules are not major rules as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.). The interim amendments will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Contract With America Advancement Act of 1996

The interim amendments to part 206 of the Commission's rules are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (Pub. L. 104-121) because they concern rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The Paperwork Reduction Act

The interim amendments to part 206 are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), since they do not contain any new information collection requirements.

List of Subjects in 19 CFR Part 206

Administrative practice and procedure, Business and industry, Imports, Investigations, Trade agreements.

For the reasons stated in the preamble, the Commission amends 19 CFR part 206 as follows:

1. Revise the heading for part 206 to read as follows:

PART 206—INVESTIGATIONS RELATING TO GLOBAL AND BILATERAL SAFEGUARD ACTIONS, MARKET DISRUPTION, TRADE DIVERSION, AND REVIEW OF RELIEF ACTIONS

2.–3. Revise the authority citation for part 206 to read as follows:

Authority: 19 U.S.C. 1335, 2251–2254, 2451–2451a, 3351–3382; secs. 103, 301–302, Pub. L. 103–465, 108 Stat. 4809.

4. Revise § 206.1 to read as follows:

§ 206.1 Applicability of part.

This part 206 applies specifically to functions and duties of the Commission under sections 201–202, 204, 406, and 421–422 of the Trade Act of 1974, as amended (19 U.S.C. 2251, 2252, 2254, 2436, 2451–2451a) (hereinafter Trade Act), and sections 301–318 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3351 et seq.) (hereinafter NAFTA Implementation Act). Subpart A of this part sets forth rules generally applicable to investigations conducted under these provisions; for other rules of general application, see part 201 of this chapter. Subpart B of this part sets forth rules specifically applicable to petitions and investigations under section 202 of the Trade Act; subpart C sets forth rules specifically applicable to requests and investigations under section 312(c) of the NAFTA Implementation Act; subpart D sets forth rules specifically applicable to petitions and investigations under section 302 of the Trade Act; subpart E sets forth rules specifically applicable to petitions and investigations under section 406 or 421 of the Trade Act. Subpart F of this part sets forth rules applicable to functions and duties under section 204 of the Trade Act. Subpart G sets forth rules applicable to functions and duties under section 422 of the Trade Act.

5. Revise § 206.2 to read as follows:

§ 206.2 Identification of type of petition or request.

An investigation under this part 206 may be commenced on the basis of a petition, request, resolution, or motion as provided in section 202(a)(1), 204(c)(1), 406(a)(1), 421(b) or (o), or 422(b) of the Trade Act of 1974 or section 302(a)(1) or 312(c)(1) of the North American Free Trade Agreement Implementation Act. Each petition or request, as the case may be, filed by an entity representative of a domestic industry under this part 206 shall state clearly on the first page thereof “This is a [petition or request] under section [202, 204(c), 406, 421(b) or (o), or 422(b)

of the Trade Act of 1974, or section 302 or 312(c) of the North American Free Trade Agreement Implementation Act] and Subpart [B, C, D, E, F, or G] of part 206 of the rules of practice and procedure of the United States International Trade Commission.”

6. In § 206.3, revise the section heading, add a second sentence to paragraph (a), amend paragraph (b) to add a second sentence, and revise paragraph (c) to read as follows:

§ 206.3 Institution of investigations; publication of notice; and availability for public inspection.

(a) * * * The Commission also will institute an investigation and publish a notice following receipt of a resolution or on the Commission’s own motion under part 206.

(b) * * * The Commission will provide the same sort of information in its notice when the investigation was instituted following receipt of a resolution or on the Commission’s own motion.

(c) *Availability for public inspection.* The Commission will promptly make each petition, request, resolution, or Commission motion available for public inspection (with the exception of confidential business information).

7. Revise § 206.4 to read as follows:

§ 206.4 Notification of other agencies.

For each investigation subject to provisions of part 206, the Commission will transmit copies of the petition, request, resolution, or Commission motion as required by the relevant statute, along with a copy of the notice of investigation.

8. Amend § 206.5 to revise paragraph (b) to read as follows:

§ 206.5 Public hearing.

* * * * *

(b) *Investigations under subpart C, D, E, or G of this part.* A public hearing on the subject of injury and remedy will be held in connection with each investigation instituted under subpart C or D of this part or section 406(a) of the Trade Act and subpart E of this part, after reasonable notice thereof has been published in the **Federal Register**. The Commission also will conduct a public hearing in each investigation instituted under section 421(b) or (o) of the Trade Act and subpart E of this part or section 422(b) of the Act and subpart G. The **Federal Register** notice announcing the institution of such an investigation will list the date, time, and location of the hearing, the subjects to be addressed, and the procedures to be followed.

* * * * *

9. Amend § 206.6 to revise paragraph (a)(2) and to add paragraph (b)(3) to read as follows:

§ 206.6 Report to the President.

(a) * * *

(2) If the determination is affirmative—or in the case of an investigation under section 421(b) or 422(b) of the Trade Act, if the President or the United States Trade Representative may consider the Commission’s determination to be affirmative under section 421(e) or (i)(1) or section 422(e)(1) of the Act—to the extent appropriate, the recommendations for action and an explanation of the basis for each recommendation;

* * * * *

(b) * * *

(3) In the case of a determination made under section 421(b) or 422(b) of the Trade Act, the Commission will also include in its report a description of—

(i) The short- and long-term effects that implementation of the action recommended is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

(ii) The short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

10. Amend § 206.7 to revise the first sentence of paragraph (a) to read as follows:

§ 206.7 Confidential business information; furnishing of nonconfidential summaries thereof.

(a) *Nonrelease of information.* Except as provided for in § 206.17, in the case of an investigation under subpart B, C, D, F, or G of this part or an investigation under section 422 of the Trade Act and subpart E of this part, the Commission will not release information which the Commission considers to be confidential business information within the meaning of § 201.6 of this chapter unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information.

* * *

11. Amend § 206.41 to revise the first sentence to read as follows:

§ 206.41 Applicability of subpart.

This subpart E applies specifically to investigations under section 406(a) or 421(b) or (o) of the Trade Act. * * *

12. Revise § 206.42 to read as follows:

§ 206.42 Who may file a petition.

(a) A petition under section 406(a) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a domestic industry producing an article with respect to which there are imports of a like or directly competitive article which is the product of a Communist country, which imports, allegedly, are increasing rapidly, either absolutely or relative to domestic production, so as to be a significant cause of material injury, or the threat thereof, to such domestic industry.

(b) A petition under section 421(b) or (o) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

13. Amend § 206.43 to revise the heading and the first sentence of the introductory text to read as follows:

§ 206.43 Contents of a petition under section 406(a) of the Trade Act.

A petition for relief under section 406(a) of the Trade Act shall include specific information in support of the claim that imports of an article that are the product of a Communist country which are like or directly competitive with an article produced by a domestic industry, are increasing rapidly, either absolutely or relative to domestic production, so as to be a significant cause of material injury, or the threat thereof, to such domestic industry.

* * *

* * * * *

14. Sections 206.44 and 206.45 are redesignated as §§ 206.45 and 206.46, respectively, and a new § 206.44 is added to read as follows:

§ 206.44 Contents of a petition under section 421(b) or (o) of the Trade Act.

(a) *Petitions under section 421(b).* A petition for relief under section 421(b) of the Trade Act shall provide specific information in support of the claim that products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. In addition, such petition shall include the information described in paragraphs (b) through (i) of this section. The petition

shall provide the information required by this paragraph and paragraphs (b) through (i) of this section to the extent that such information is reasonably available to the petitioner with due diligence.

(b) *Product description.* Each petition shall include the name and description of the imported product concerned, specifying the United States tariff provision under which such product is classified and the current tariff treatment thereof, and the name and description of the like or directly competitive domestic product concerned.

(c) *Representativeness.* Each petition shall include:

(1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic product is produced;

(2) The percentage of domestic production of the like or directly competitive domestic product that such represented firms and/or workers account for and the basis for asserting that petitioner is representative of an industry; and

(3) The names and locations of all other producers of the domestic product known to the petitioner.

(d) *Import data.* Each petition shall include import data for at least each of the most recent 5 full years which form the basis of the claim that imports from the People's Republic of China of a product like or directly competitive with the product produced by the domestic industry concerned are increasing rapidly, either absolutely or relatively.

(e) *Domestic production data.* Each petition shall include data on total U.S. production of the domestic product for each full year for which data are provided pursuant to paragraph (d) of this section.

(f) *Data showing injury and/or threat of injury.* Each petition shall include the following quantitative data indicating the nature and extent of injury to the domestic industry concerned:

(1) With respect to material injury, information, including data on production, capacity, capacity utilization, shipments, net sales, profits, employment, productivity, inventories, and expenditures on capital and research and development, indicating:

(i) An idling of production facilities in the industry, including data indicating plant closings or the underutilization of production capacity;

(ii) The inability of a number of firms to carry out domestic production

operations at a reasonable level of profit; and

(iii) Unemployment or underemployment within the industry; and/or

(2) With respect to the threat of material injury, data relating to:

(i) Declines in sales or market share, increases in inventory (whether maintained by domestic producers, importers, wholesalers, retailers, or producers or exporters in the People's Republic of China), and/or a downward trend in production, profits, wages, or employment (or increasing underemployment);

(ii) The extent to which firms in the industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development;

(iii) The extent to which the U.S. market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(iv) Data regarding productive capacity in the People's Republic of China, any unused productive capacity, and any potential for product shifting in the People's Republic of China.

(g) *Cause of injury.* Each petition shall enumerate and describe the causes believed to be resulting in the material injury, or threat thereof, described in paragraph (f) of this section. The petition shall provide information relating to the effect of imports of the subject merchandise on prices in the United States for like or directly competitive articles. The petition shall also include a statement regarding the extent to which increased imports, either actual or relative, of the imported product are believed to be such a cause, supported by pertinent data.

(h) *Critical circumstances.* If the petition alleges that critical circumstances exist within the meaning of section 421(i)(1) of the Trade Act, the petition shall provide detailed information supporting that claim as well as detailed information demonstrating that delay in taking action under section 421 of the Act would cause damage to the relevant domestic industry that would be difficult to repair.

(i) *Relief sought and purpose thereof.* The petition shall include a statement describing the import relief sought under section 421(i)(4) and/or section 421(a) of the Trade Act and the purpose thereof.

(j) *Petitions under section 421(o)*. A petition under section 421(o) of the Trade Act shall include evidence of representativeness, as described in paragraph (b) of this section, as well as specific information in support of the claim that action under section 421 of the Act continues to be necessary to prevent or remedy market disruption. The information provided in support of that claim should take into account factors such as those specified in paragraphs (c) through (g) of this section. To comply with this paragraph, the petition should contain all relevant information that is reasonably available to the petitioner with due diligence.

15. Revise newly designated § 206.45 read as follows:

§ 206.45 Time for reporting.

(a) In an investigation under section 406(a) of the Trade Act, the Commission will make its report to the President at the earliest practical time, but not later than 3 months after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

(b) In an investigation under section 421(b) of the Trade Act, the Commission will transmit to the President and the United States Trade Representative its determination at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting provisional relief under section 421(i) of the Act) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted. The Commission will transmit its report to the President and the Trade Representative no later than 20 days after the transmittal of the determination.

(c) In an investigation under section 421(b) of the Trade Act in which the petition requests provisional relief under section 421(i) of the Act, the Commission will transmit to the President and the Trade Representative its determination and report with respect to section 421(i) of the Act no later than 45 days after the petition is filed.

(d) In an investigation under section 421(o) of the Trade Act, the Commission shall transmit to the President a report on its investigation and determination not later than 60 days before the action under section 421(m) of the Trade Act is to terminate.

16.–17. Add § 206.47 to read as follows:

§ 206.47 Limited disclosure of certain confidential business information under administrative protective order.

In an investigation under section 421(b) or (o) of the Trade Act, the Secretary shall make confidential business information available to authorized applicants, subject to the provisions of § 206.17.

18. Add subpart G, consisting of §§ 206.61 through 206.68, to read as follows:

Subpart G—Investigations For Action in Response to Trade Diversion; Reviews of Action Taken

Sec.

206.61 Applicability of subpart.

206.62 Who may file a petition.

206.63 Contents of a petition.

206.64 Institution of investigation or review; publication of notice; and availability for public inspection.

206.65 Public hearing.

206.66 Limited disclosure of certain confidential business information under administrative protective order.

206.67 Time for determination and report.

206.68 Public report.

Subpart G—Investigations For Action in Response to Trade Diversion; Reviews of Action Taken

§ 206.61 Applicability of subpart.

The provisions of this subpart G apply to investigations under section 422(b) and/or reviews under section 422(j) of the Trade Act. For other applicable rules, see subpart A of this part and part 201 of this chapter.

§ 206.62 Who may file a petition.

A petition for an investigation under section 422(b) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

§ 206.63 Contents of petition.

A petition under section 422(b) of the Trade Act shall include specific information in support of the claim that an action described in section 422(c) of the Trade Act has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States. To comply with that requirement and the requirements in paragraphs (a) through (f) of this section, the petition shall include all relevant information that is reasonably available to the petitioner with due diligence. The petition shall include the following information:

(a) *Product description*. The name and description of the imported product concerned, specifying the United States tariff provision under which such article is classified and the current tariff

treatment thereof, and the name and description of the domestic product concerned;

(b) *Representativeness*. (1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic product is produced;

(2) The percentage of domestic production of the domestic product that such represented firms and/or workers account for and the basis for asserting that petitioner is representative of an industry; and

(3) The names and locations of all other producers of the domestic product known to the petitioner;

(c) *Description of the action*. A description of the action or actions, as defined in section 422(c) of the Trade Act, that allegedly has caused or threatens to cause a significant diversion of trade into the domestic market of the United States;

(d) *Trade diversion data*. (1) The actual or imminent increase in United States market share held by such imports from the People's Republic of China;

(2) The actual or imminent increase in volume of such imports into the United States;

(3) The nature and extent of the action taken or proposed by the WTO member concerned;

(4) The extent of exports from the People's Republic of China to that WTO member and to the United States;

(5) The actual or imminent changes in exports to that WTO member due to the action taken or proposed;

(6) The actual or imminent diversion of exports from the People's Republic of China to countries other than the United States;

(7) Cyclical or seasonal trends in import volumes into the United States of the products at issue; and

(8) Conditions of demand and supply in the United States market for the products at issue;

(e) *Import data*. Any import data available to the petitioner that will aid the Commission in examining, pursuant to section 422(d)(2) of the Trade Act, the changes in imports into the United States from the People's Republic of China since the time that the WTO member commenced the investigation that led to a request for consultations described in section 422(a) of the Act; and

(f) *Relief sought and purpose thereof*. A statement describing the import relief sought under section 422(h) of the Trade Act and the purpose thereof.

§ 206.64 Institution of investigation or review; publication of notice; and availability for public inspection.

(a) Paragraphs (a) and (b) in § 206.3 govern the institution of an investigation under section 422(b) of the Act and the publication of a **Federal Register** notice concerning the investigation. Following receipt of notification that the WTO member or members involved have notified the Committee on Safeguards of the WTO of a modification in the action taken by them against the People's Republic of China pursuant to consultation referred to in section 422(a) of the Act, the Commission will promptly conduct a review under section 422(j) of the Act regarding the continued need for action taken under section 422(h) of the Act. The Commission also will publish notice of the review in the **Federal Register**.

(b) The Commission will make available for public inspection the notification document that prompted a review under paragraph (a) of this section, excluding any confidential business information in the document. Paragraph (c) in § 206.3 governs the availability for public inspection of a petition, request, resolution, or motion that prompted the Commission to institute an investigation under section 422(b) of the Act.

§ 206.65 Public hearing.

Public hearings in investigations under section 422(b) of the Act are provided for in § 206.5(b).

§ 206.66 Limited disclosure of certain confidential business information under administrative protective order.

In an investigation under section 422(b) of the Trade Act, the Secretary shall make confidential business information available to authorized applicants, subject to the provisions of § 206.17.

§ 206.67 Time for determination and report.

(a) In an investigation under section 422(b) of the Trade Act, the Commission will transmit its determination under that section of the Act to the President and the Trade Representative at the earliest practical time, but not later than 45 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be. The Commission shall issue and transmit its report on the determination not later than 10 days after the determination is issued.

(b) In a review under section 422(j) of the Trade Act, the Commission will report its determination to the President

not later than 60 days after the notification described in that section of the Act.

§ 206.68 Public report.

Upon making a report to the President of the results of an investigation under section 422(b) or a review under section 422(j) of the Trade Act, the Commission will make such report public (with the exception of information which the Commission determines to be confidential) and cause a summary thereof to be published in the **Federal Register**.

Issued: February 15, 2002.

By Order of the Commission.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02-4186 Filed 2-21-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 100**

[CGD08-01-012]

RIN 2115-AE46

Marine Events & Regattas; Annual Marine Events in the Eighth Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing and modifying various annually recurring marine events throughout the Eighth Coast Guard District. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to control vessel traffic in portions of the waterways of the Eighth District in conjunction with these marine events.

DATES: This final rule is effective March 25, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD08-01-012] and are available for inspection or copying at room 1311, Hale Boggs Federal Building, New Orleans, Louisiana, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander David Nichols, Eighth Coast Guard District Legal Office, (504) 589-6188.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 17, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Marine Events and Regattas; Annual Marine Events in the Eighth Coast Guard District" in the **Federal Register**. We received one e-mail and no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is establishing various annually recurring marine events and modifying some of the existing marine event regulations throughout the Eighth Coast Guard District. Establishing permanent marine event regulations and modifying some of the existing marine event regulations by notice and comment rulemaking gave the public an opportunity to comment on these proposed regulations. The Coast Guard has received no prior notice of any impact caused by the previous events. The new or modified marine event regulations are as follows:

Independence Day Fireworks, Mobile, AL

The regulated area for this event is from the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North. The Mobile Register will sponsor the one-day event that will occur on the 4th of July.

Blue Angels Air Show, Pensacola, FL

The regulated area for this event is a five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront. Naval Air Station Pensacola, Florida will sponsor the two-day event that will occur on the 2nd weekend in July.

Fort-to-Fort Swim, Pensacola, FL

The regulated area for this event is in the Gulf Intracoastal Waterway at Pensacola, Florida from the Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16. The one-day event will occur on the 1st weekend in August.

Keesler Air Force Base Air Show, Biloxi, MS

The regulated area for this event is bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees,

55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West. Keesler Air Force Base, Biloxi, Mississippi, will sponsor the two-day event that will occur on the 1st weekend in November.

Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

The regulated area for this event is Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou. The Krewe of Billy Bowlegs of Okaloosa County, Inc. will sponsor the two-day event that will occur on the 1st weekend in June.

East-West Powerboat Shootout, Corpus Christi, TX

The regulated area for this event is the waters of Corpus Christi Bay adjacent to the Corpus Christi downtown area bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West. EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association will sponsor the two-day event that will occur on the 1st or 2nd weekend in June.

Rubber Ducky Derby, Beaumont, TX

The regulated area for this event is on the Neches River from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5. C P Rehabilitation Center will sponsor the event which will occur on the 2nd, 3rd, or 4th Saturday in April.

Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

The regulated area for this event is on the waters of the Sabine-Neches Canal from Wilson Middle School to the northern terminus of Old Golf Course Road. The event is sponsored by the City of Port Arthur and Lamar State College and will occur on the Fourth of July.

Neches River Festival, Beaumont, TX

The date is amended to read "two days beginning on the 2nd, 3rd, or 4th weekend in April."

Annual Labor Day Fireworks

The regulated area is amended to read "Destin East Pass between and including buoys 5 to 11, Destin, FL".

Independence Day Fireworks, Destin, FL

The regulated area is amended to read "Destin East Pass between and including buoys 5 to 11, Destin, FL".

Discussion of Comments and Changes

We received one e-mail from Marine Safety Office Port Arthur notifying us that there was a minor error in the listing for the Rubber Ducky Derby. The NPRM stated that the event is to occur on the "2nd, 3rd, and 4th Saturday in April." The correct language should be "2nd, 3rd, or 4th Saturday in April." We changed the proposed regulation to reflect the correct language. No other comments were received.

Regulatory Evaluation

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

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

Although these marine events will restrict vessel traffic from transiting certain areas of Eighth Coast Guard District waters, the effect of this regulation will not be significant due to the limited duration that the regulated areas will be in effect and the advance notification that will be made to the maritime community through the **Federal Register**. These regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Collection of Information

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

Federalism

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking.

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environmental

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes and/or amends annual marine event regulations. A “Categorical Exclusion Determination” is available in the docket 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 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 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 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—REGATTAS AND MARINE PARADES

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

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

2. Amend Table 1 of § 100.801 by as follows:

a. The seven “Groups” identified in Table 1 are designated as units I through VII, respectively, as set out below;

b. In newly designated unit IV, revise entries 8. for Independence Day

Fireworks, Destin, FL, and 16. for Annual Labor Day Fireworks, Destin, FL, and add entries 18–22. for Independence Day Fireworks, Mobile, AL; Blue Angels Air Show, Pensacola, FL; Fort-to-Fort Swim, Pensacola, FL; Keesler Air Force Base Air Show, Biloxi, MS; and Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL, and as set out below;

c. In newly designated unit VI, revise entry 1. for Neches River Festival, Beaumont, TX as set out below;

d. At the end of newly designated unit VII, add entry 8. for East-West Powerboat Shootout, Corpus Christi, TX as set out below;

e. Add new unit VIII Marine Safety Office Port Arthur to include the entries Rubber Ducky Derby, Beaumont, TX, and Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX as set out below.

The revisions and additions read as follows:

§ 100.801 Annual Marine Events in the Eighth Coast Guard District.

* * * * *

Table 1 of § 100.801

I. Group Upper Mississippi River

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II. Group Ohio Valley

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III. Group Lower Mississippi River

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IV. Group Mobile

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8. Independence Day Fireworks, Destin, FL

Sponsor: City of Destin, FL.

Date: 1 Day—4th of July.

Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL.

* * * * *

16. Annual Labor Day Fireworks

Sponsor: City of Destin, FL.

Date: 1 Day—Day of or Day before Labor Day.

Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL.

* * * * *

18. Independence Day Fireworks, Mobile, AL

Sponsor: The Mobile Register.

Date: 1 Day—4th of July.

Regulated Area: From the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North.

19. Blue Angels Air Show, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL.

Date: 2 Days—2nd weekend in July.

Regulated Area: A five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront.

20. Fort-to-Fort Swim, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL.

Date: 1 Day—1st weekend in August.

Regulated Area: Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16.

21. Keesler Air Force Base Air Show, Biloxi, MS

Sponsor: Keesler Air Force Base, Biloxi, MS.

Date: 2 Days—1st weekend in November.

Regulated Area: Bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees, 55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West.

22. Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

Sponsor: The Krewe of Billy Bowlegs of Okaloosa County, Inc.

Date: 2 Days—1st weekend in June.

Regulated Area: Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou.

* * * * *

V. Group New Orleans

* * * * *

VI. Group Galveston

1. Neches River Festival, Beaumont, TX

Sponsor: Neches River Festival, Inc.

Date: 2 Days—2nd, 3rd, or 4th Weekend in April.

Regulated Area: Neches River from Collier's Ferry Landing to Lawson's Crossing at the end of Pine St., Beaumont, TX.

* * * * *

VII. Group Corpus Christi

* * * * *

8. East-West Powerboat Shootout, Corpus Christi, TX

Sponsor: EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association.

Date: 2 Days—1st or 2nd weekend in June.

Regulated Area: Bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West.

VIII. Marine Safety Office Port Arthur

1. Rubber Ducky Derby, Beaumont, TX

Sponsor: C P Rehabilitation Center.

Date: 1 Day—2nd, 3rd, or 4th Saturday in April.

Regulated Area: All waters of the Neches River, bank to bank, from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5.

2. Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

Sponsor: The City of Port Arthur and Lamar State College.

Date: 1 Day—4th of July.

Regulated Area: All waters of the Sabine-Neches Canal, bank to bank, from Wilson Middle School to the northern terminus of Old Golf Course Road.

Dated: February 7, 2002.

Roy J. Casto,

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

[FR Doc. 02-4086 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA 01-117]

RIN 2115-AA97

Security Zones; Port of Tampa, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones of

100 yards around moored vessels carrying or transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade "A" and "B" flammable liquid cargoes. The purpose of these security zones is to safeguard the public and ports from destruction, loss, or injury from sabotage or other subversive acts. No person or vessel may enter a security zone without permission from the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This regulation is effective from 6 p.m. on October 5, 2001 until 6 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of COTP Tampa 01-117 and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606-3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David McClellan, Coast Guard Marine Safety Office Tampa, at (813) 228-2189.

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 rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

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

Based on the September 11, 2001 terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of Tampa, Florida, moored vessels carrying or transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade "A" and "B" flammable liquid cargoes and the terminals to which they are tied. No vessel may transit within 100 yards of moored vessels carrying or

transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade "A" and "B" flammable liquid cargoes.

Coast Guard and local police department patrol vessels will be on scene to monitor traffic through these areas. Entry into a security zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channels 13 and 16 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because the zones only extends 100 yards around the subject vessels and vessels may enter the zones with the permission of the Captain of the Port of Tampa.

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 businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

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 can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance,

please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Unfunded Mandates 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 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.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2-1, paragraph

34(g) of Commandant Instruction M16475.1D, this 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**.

Protection of Children

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

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 relationships 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 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 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 6.04-11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07-117 is added to read as follows:

§ 165.T07-117 Security Zones; Port of Tampa, Tampa Florida.

(a) *Regulated area.* Temporary security zones are established 100 yards around moored vessels carrying or transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade "A" and "B" flammable liquid cargoes in the Port of Tampa, Florida.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, petty officer, or other law enforcement official designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channels 13 and 16 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

(c) *Dates.* This section is effective from 6 p.m. on October 5, 2001 until 6 p.m. on June 15, 2002.

Dated: October 5, 2001.

A.L. Thompson, Jr.,

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

[FR Doc. 02-4286 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02-001]

RIN 2115-AA97

Security Zone; Operation Native Atlas 2002, Waters Adjacent to Camp Pendleton, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the waters adjacent to Camp Pendleton, California. This action is taken at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) San Diego, or his designated representative.

DATES: This rule is effective from 12:01 a.m. (PST) on February 21, 2002 to 11:59 p.m. (PDT) on May 15, 2002.

ADDRESSES: Any comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, are part of docket COTP San Diego 02-001, and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683-6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

This rulemaking action was taken at the request of the United States Navy and is considered necessary to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. This temporary security zone is necessary for protection of the public from the hazards of upcoming Naval operations in support of Operation Native Atlas 2002 in the area and for the protection of the operations from compromise and interference.

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

Due to the complex planning, national security reasons, and the coordination involved with Naval scheduling, final details for the Operation Native Atlas 2002 were not provided to the Coast Guard in time to draft and publish a NPRM or a final rule 30 days in advance of its effective date. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the Naval vessels, their crew and national security.

Furthermore, in order to protect the interests of national security, the Coast Guard is promulgating this temporary regulation to provide for the safety and security of U.S. Naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of this security zone is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C.

553(a)(1), notice and comment rulemaking and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Background and Purpose

United States Navy officials have requested that the Captain of the Port (COTP), San Diego, California establish a temporary security zone in the area of Camp Pendleton California. This request was made to improve security of Naval facilities and operations at this location and to protect the public from hazardous operations. Several hazardous or classified naval operations, including activities related to Operation Native Atlas 2002, will be conducted near this location, that are vital to national security and require protection of the public or protection of the operation from compromise and interference. The Captain of the Port concurs with the need for this security zone. The security zone is needed to protect persons and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature, and to secure the interests of the United States.

This security zone is necessary to provide for the safety and security of the United States of America. This security zone, prohibiting all vessel traffic from entering, transiting or anchoring within the areas defined by the security zone, is necessary for the security and protection of national assets. U.S. Navy personnel and U.S. Coast Guard vessels will enforce this zone.

Persons and vessels are prohibited from entering into this security zone unless authorized by the Captain of the Port or his designated representative. Each person and vessel in a security zone shall obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the COTP.

This security zone is established pursuant to the authority of The Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including Subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations. Vessels or persons violating this section are subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel, a monetary penalty of not more than \$10,000, and imprisonment for not more than 10 years.

Regulatory Evaluation

This temporary final rule is not a "significant regulatory action" under

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

Due to national security interests, the implementation of this security zone is necessary for the protection of the United States and its people. The size of the zone is the minimum necessary to provide adequate protection for U.S. Naval vessels, their crews, adjoining areas, and the public. The entities most likely to be affected, if any, are pleasure craft engaged in recreational activities and sightseeing. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews, and the public.

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 impact on a substantial number of small entities. The term "small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

This security zone will not have a significant impact on a substantial number of small entities because these security zones are only closing small portions of the navigable waters adjacent to Camp Pendleton, California. In addition, there are no small entities shoreward of the security zone. For these reasons, and the ones discussed in the previous section, the Coast Guard certifies, under 5 U.S.C. 605(b), that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard offers to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lt Rick Sorrell, Chief of Port Operations, Marine

Safety Office San Diego, at (619) 683-6495.

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 under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add new § 165.T11-033 to read as follows:

§ 165.T11-033 Security Zone: Waters Adjacent to Camp Pendleton, California.

(a) *Location.* The following area is a security zone: All waters and shoreline areas within the following boundaries: A point on the shore at N33-12.4 W117-23.6 (Point A), proceeding south westward to N33-09.5 W117-28.5 (Point B), then north westward to N33-19.1 W117-38.1 (Point C), then north eastward to the shore at 33-22.0 W117-33.4 (Point D).

(b) *Effective dates.* This section will be in effect from 12:01 a.m. (PST) on February 21, 2002 to 11:59 p.m. (PDT) on May 15, 2002. If the need for this security zone ends before the scheduled termination time and date, the Captain of the Port will cease enforcement of the security zones and will also announce that fact via Broadcast Notice to Mariners and Local Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person or vessel may enter or remain in the security zone established by this temporary regulation, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary regulation. Mariners requesting permission to transit through the security zones must request authorization to do so from the Captain of the Port, who may be contacted at (619) 683-6495, or U.S. Navy Force Security Officer (FSO), who may be reached during normal working hours at (619) 437-9828. After normal working hours the FSO can be reached at (619) 437-9480.

(d) The U.S. Navy may assist the U.S. Coast Guard in the patrol and enforcement of this security zone.

Dated: February 13, 2002.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 02-4289 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-15-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

RIN 3095-AB01

Research Room Procedures

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is amending its regulations on use of NARA research rooms to add a policy on use of public access personal computers (workstations) in the research rooms. These NARA-provided workstations will provide researcher access to the Internet. We are also clarifying that, in research rooms where the plastic researcher identification card is also used with the facility's security system, we will issue a plastic card to researchers who have a paper card from another NARA facility. This rule will affect researchers who use NARA research facilities nationwide.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301-713-7360, ext. 226, or fax number 301-713-7270.

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on September 7, 2001 at 66 FR 46752. The comment period ended on November 6, 2001. NARA received no public comments, and is issuing this final rule without change.

The public access computers described in § 1254.25 are being installed in research and/or consultation rooms in all NARA archival facilities, including regional archives and Presidential libraries, to provide Internet access for research purposes, such as access to NARA's Archival Information Locator (NAIL), and NAIL's successor, the Archival Research Catalog (ARC). Computers designated for public use provide Internet access only. At least one of the public Internet access workstations in each facility complies with the Workforce Investment Act of 1998, ensuring comparable accessibility to individuals with disabilities. Individual accessibility requirements are addressed on an as-needed basis. We encourage people who require assistive technology to notify the appropriate research room at least two weeks in advance.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to individuals conducting research on NARA premises. This regulation does not have any federalism or tribal implications.

List of Subjects in 36 CFR Part 1254

Archives and records.

For the reasons set forth in the preamble, NARA amends part 1254 of title 36, Code of Federal Regulations, as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101-2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Revise § 1254.6 to read as follows:

§ 1254.6 Researcher identification card.

(a) An identification card is issued to each person who is approved to use records other than microfilm. Cards are valid for one year, and may be renewed upon application. Cards are valid at each facility, except as described in paragraph (b) of this section. They are not transferable and must be presented if requested by a guard or research room attendant.

(b) At the National Archives in College Park and other NARA facilities that issue and use plastic researcher identification cards as part of their security systems, paper researcher identification cards issued at other NARA facilities are not valid. In facilities that use plastic researcher identification cards, NARA will issue a plastic card to replace the paper card at no charge.

3. Add § 1254.25 to read as follows:

§ 1254.25 Rules for public access use of the Internet on NARA-supplied personal computers.

(a) Public access personal computers (workstations) are available for Internet use in all NARA research rooms. The number of workstations varies per location. These workstations are intended for research purposes and are provided on a first-come-first-served basis. When others are waiting to use the workstation, a 30-minute time limit may be imposed on the use of the equipment.

(b) Researchers should not expect privacy while using these workstations. These workstations are operated and maintained on a United States Government system, and activity may be monitored to protect the system from unauthorized use. By using this system, researchers expressly consent to such monitoring and the reporting of unauthorized use to the proper authorities.

(c) At least one Internet access workstation will be provided in each facility that complies with the Workforce Investment Act of 1998,

ensuring comparable accessibility to individuals with disabilities.

(d) Researchers may download information to a diskette and print materials, but the research room staff will furnish the diskettes and paper. Researchers may not use personally owned diskettes on NARA personal computers.

(e) Researchers may not load files or any type of software on these workstations.

Dated: February 15, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02-4211 Filed 2-21-02; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA-47-2; GA-55-2; GA-58-2-200216; FRL-7148-4]

Approval and Promulgation of Air Quality State Implementation Plans; Georgia: Control of Gasoline Sulfur and Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision, submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD), establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Georgia developed these fuel requirements to reduce emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Atlanta nonattainment area. EPA is approving Georgia's fuel requirements into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

EFFECTIVE DATE: This final rule is effective on March 25, 2002.

ADDRESSES: Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61

Forsyth Street, SW, Atlanta, Georgia 30303-8960. Lynorae Benjamin, (404) 562-9040.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363-7000.

FOR FURTHER INFORMATION CONTACT:

Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION: On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-hour ozone NAAQS for the Atlanta nonattainment area for inclusion into the Georgia SIP. This submittal included a version of the low-sulfur/low-RVP fuel regulations that has subsequently been amended by the State, and submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001. The version submitted on August 21, 2001, which is the subject of this final rulemaking, is the "Gasoline Marketing Rule," provided in Georgia's Rules for Air Quality Control, Chapter 391-3-1.02(2) (bbb).

On May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD also submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Act, the fuel control is necessary to achieve a NAAQS. On November 9, 2001, GAEPD submitted an updated "necessity" demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations. Specifically, the Georgia "necessity" demonstration submittals contain data and analyses to support a finding under section 211(c)(4)(C) that the State's low-sulfur and low-RVP requirements are necessary for the Atlanta nonattainment area to achieve the ozone NAAQS. On December 11, 2001, (66 FR 63982) EPA published a notice of proposed rulemaking (NPR) to approve the fuel waiver request and fuel rule. That NPR provides a detailed description of this action and EPA's rationale for proposed approval. The public comment period

for this action ended on January 25, 2002. No comments, adverse or otherwise, were received on EPA's proposal.

Final Action

EPA is approving Georgia's low-sulfur/low-RVP fuel program into the federally enforceable SIP because the fuel requirements are in accordance with the Act, are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner, and will supply some or all of the reductions needed to achieve the ozone NAAQS.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2001). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely

approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of prior existing requirements for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: February 4, 2002.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Section 52.569 is removed and reserved.

3. Section 52.570 is amended by:
a. Adding in the table to paragraph (c) a new entry in numerical order for 391–3–1–.02(2)(bbb); and

b. Adding two new entries 16 and 17 in numerical order to the table in paragraph (e).

The additions read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
391–3–1–.02(2)(bbb)	Gasoline Marketing Rule	07/18/01	2/22/02	*
* * *	* * *	* * *	* * *	* * *
(e) * * *				

EPA APPROVED GEORGIA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date
* * *	* * *	* * *	* * *
16. Preemption Waiver Request for Low-RVP, Low-Sulfur Gasoline Under Air Quality Control Rule 391–3–1–.02(2)(bbb).	Atlanta Metropolitan Area	May 31, 2000	February 22, 2002
17. Technical Amendment to the Georgia Fuel Waiver Request of May 31, 2000.	Atlanta Metropolitan Area	November 9, 2001	February 22, 2002

* * * * *

[FR Doc. 02–4142 Filed 2–21–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[AD–FRL–7148–7]

RIN 2060–AE34

National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On June 17, 1999, we issued the national emission standards for hazardous air pollutants (NESHAP) from Oil and Natural Gas Production Facilities and the national emission

standards for hazardous air pollutants from Natural Gas Transmission and Storage Facilities (Oil and Gas NESHAP). On June 29, 2001, we issued technical corrections to clarify intent and correct errors in the Oil and Gas NESHAP. This technical correction will correct an error that was made in the technical correction for the Natural Gas Transmission and Storage Facilities NESHAP and will not change the level of health protection the Natural Gas Transmission and Storage Facilities NESHAP provide or the basic control requirements of the Natural Gas Transmission and Storage Facilities NESHAP. The NESHAP require new and existing major sources to control emissions of hazardous air pollutants (HAP) to the level reflecting application of the maximum achievable control technology.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public

procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this error correction without prior proposal and opportunity for comment because the change to the rule is a minor technical correction, is noncontroversial in nature, and does not substantively change the requirements of the Natural Gas Transmission and Storage Facilities NESHAP. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(5).

EFFECTIVE DATE: February 22, 2002.

ADDRESSEES: Docket No. A–94–04 contains the supporting information used in the development of this rulemaking. The docket is located at the U.S. EPA in room M–1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m.,

Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Nizich, Waste and Chemical Processes Group, Emission Standards Division (C439-03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-3078, facsimile: (919) 541-0246, electronic mail address: nizich.greg@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities that will potentially be affected by this correction are those that store or transport natural gas and are major sources of HAP as defined in section 112 of the Clean Air Act. The regulated categories and entities include:

Category	Examples of regulated entities
Industry	Glycol dehydration units and natural gas transmission and storage facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1270 of the Natural Gas Transmission and Storage Facilities NESHAP. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. *World Wide Web (WWW).* The text of today's document will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

I. Correction

Today's action consists of one error correction to the Natural Gas Transmission and Storage Facilities NESHAP technical corrections that were published on June 29, 2001 (66 FR 34548). This error correction is minor in nature and noncontroversial. We have

deleted a subparagraph that was intended to have been deleted from the applicability section of the Natural Gas Transmission and Storage Facilities NESHAP.

The correction in today's action is being made to remove subparagraph § 63.1270(a)(1)(iv) that mistakenly remained in the June 29, 2001 technical corrections. In that action a single equation was added to simplify a four-step process to calculate natural gas throughput. The deletion of this subparagraph will avoid confusion and make it clear that only the single equation added in the June 29, 2001 action is used in determining natural gas throughput.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This technical correction also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This technical correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this technical correction, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation,

and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this rule amendment in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the June 17, 1999 (64 FR 32610) **Federal Register** publication containing the Oil and Natural Gas Production final rule and Natural Gas Transmission and Storage final rule.

This technical correction is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of February 22, 2002. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations,

Reporting and recordkeeping requirements.

Dated: February 14, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart HHH—[Amended]

2. Section 63.1270 is amended by removing paragraph (a)(1)(iv).

[FR Doc. 02-4301 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-299; MM Docket No. 98-159; RM-9290]

Radio Broadcasting Services; Wallace, ID, and Bigfork, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule, petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Bee Broadcasting, Inc. directed to the *Report and Order* in this proceeding. See 66 FR 29726, published May 17, 2001. Specifically, that action reallocated Channel 264C to Bigfork, Montana, and modified the Station KSIL construction permit accordingly.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418-2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 98-159, adopted February 6, 2002, and released February 8, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. The complete text of this decision 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.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4219 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-296; MM Docket No. 01-250, RM-10273; MM Docket No. 01-251, RM-10274 and MM Docket No. 01-253, RM-10276]

Radio Broadcasting Services; Cheyenne Wells, Flagler, and Stratton, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants three proposals that allot new FM channels to Cheyenne Wells, Flagler, and Stratton, Colorado. Filing windows for Channel 224C1 at Cheyenne Wells, Colorado, Channel 283C3 at Flagler, Colorado, and Channel 246C1 at Stratton, Colorado, will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order. See Supplementary Information.

DATES: Effective March 25, 2002.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 01-250, MM Docket No. 01-251, and MM Docket No. 01-253, adopted January 30, 2002, and released February 8, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The 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.

The Commission, at the request of Cheyenne Wells Broadcasting, allots Channel 224C1 at Cheyenne Wells,

Colorado, as the community's first local aural transmission service. See 66 FR 50602 (October 4, 2001). Channel 224C1 can be allotted at Cheyenne Wells in compliance with the Commission's minimum distance separation requirements with no site restrictions. The coordinates for Channel 224C1 at Cheyenne Wells are 38-49-16 North Latitude and 102-21-09 West Longitude.

The Commission, at the request of Flagler Broadcasting, allots Channel 283C3 at Flagler, Colorado, as the community's first local aural transmission service. See 66 FR 50602 (October 4, 2001). Channel 283C3 can be allotted to Flagler in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.5 kilometers (4.1 miles) west of Flagler. The coordinates for Channel 283C3 at Flagler are 39-17-17 North Latitude and 103-08-32 West Longitude.

The Commission, at the request of Stratton Broadcasting, allots Channel 246C1 at Stratton, Colorado, as the community's first local aural transmission service. See 66 FR 50602 (October 4, 2001). Channel 246C1 can be allotted to Stratton in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.3 kilometers (2.7 miles) east of Stratton, Colorado. The coordinates for Channel 246C1 at Stratton are 39-18-34 North Latitude and 102-33-17 West Longitude.

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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Cheyenne Wells, Channel 224C1; Flagler, Channel 283C3; and Stratton, Channel 246C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4218 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 02-300; MM Docket No. 01-18; RM-10026; RM-10098]

Radio Broadcasting Services; Arriba, Bennett, Brush and Pueblo, CO; Pine Bluffs, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed by Alan Olson, this document allots Channel 240A to Arriba, Colorado, for previously proposed Channel 297A. See 66 FR 9683, February 9, 2001. Additionally, in response to a counterproposal filed jointly on behalf of KKDD-FM Broadcasters, Inc. LLC, licensee of Station KSIR-FM, Brush, Colorado, and Metropolitan Radio Group, Inc., licensee of Station KNKN, Pueblo, Colorado ("counterproponents"), this document substitutes Channel 296C for Channel 296C1 at Brush, reallocates Channel 296C to Bennett, Colorado, as that community's first local aural service, and modifies the license for Station KSIR-FM, as requested. In order to accommodate the Bennett allotment, this document also substitutes Channel 295C2 for Channel 296C2 at Pueblo, Colorado, at a new transmitter site, and modifies the license for Station KNKN, as requested. Additionally, Channel 238C3 is allotted to Pine Bluffs, Wyoming, as requested by the counterproponents. Coordinates used for Channel 240A at Arriba, Colorado, are 39-17-12 NL and 103-16-30 WL; coordinates used for Channel 296C at Bennett, Colorado, are 39-54-34 NL and 103-57-58 WL; coordinates used for Channel 295C2 at Pueblo, Colorado, are 38-06-32 NL and 104-29-18 WL; coordinates used for Channel 238C3 at Pine Bluffs, Wyoming, are 41-00-23 NL and 104-00-34 WL.

DATES: Effective March 25, 2000. A filing window for Channel 240A at Arriba, Colorado, and for Channel 238C3 at Pine Bluffs, Wyoming, 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. 01-18, adopted January 30, 2002, and released

February 8, 2002. 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. 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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Arriba, Channel 240A; by adding Bennett, Channel 296C; by removing Channel 296C1 at Brush;¹ by removing Channel 296C2 at Pueblo and adding Channel 295C2.

3. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 238C3 at Pine Bluffs.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4217 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION**Transportation Security Administration****49 CFR Parts 1540 and 1544**

[Docket No. TSA-2002-11604]

RIN 2110-AA04

Security Programs for Aircraft 12,500 Pounds or More

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This rule requires that certain aircraft operators using aircraft with a

¹ 47 CFR Parts 70 to 79, revised October 1, 2000, at Section 73.202(b) under Colorado, reflects the allotment of Channel 296A at Brush, Colorado. However, that allotment was modified in the context of MM Docket No. 88-605, adopted September 11, 1989, to specify Channel 296C1.

maximum certificated takeoff weight of 12,500 pounds or more carry out security measures. This rule requires that certain aircraft operators conduct criminal history records checks on their flightcrew members, and restrict access to the flight deck. These measures are necessary to comply with Congressional mandates and to enhance security in air transportation.

DATES: This rule is effective June 24, 2002. Submit comments by April 23, 2002.

ADDRESSES: *Comments Submitted by Mail:* Address written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590. You must identify the docket number TSA-2002-11604 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that TSA received your comments, include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. TSA-2002-11604." The postcard will be date-stamped and mailed to you.

Comments Filed Electronically: You may also submit comments through the Internet at <http://dms.dot.gov>.

Reviewing Comments in the Docket: You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Lon Siro, Transportation Security Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone 202-267-3413.

SUPPLEMENTARY INFORMATION:**Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb. 26, 1979), however provides that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or

international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with TSA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

TSA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Availability of Final Rule

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

- (1) Go to 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 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 final rule.

You can also get an electronic copy using the Internet through the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

In addition, copies are available by writing or calling the Transportation Security Administration's Air Carrier Division, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202-267-3413.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT** for information. You can get further information regarding SBREFA on the Small Business Administration's Web page at http://www.sba.gov/advo/laws/law_lib.html.

Abbreviations and Terms Used in This Document

ATSA—Aviation and Transportation Security Act
CHRC—Criminal history records check
SIDA—Security identification display area

Background

History and Current Regulations

On November 16, 2001, the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71), was enacted. ATSA created the Transportation Security Administration (TSA), and transferred aviation security functions from the Federal Aviation Administration (FAA) to TSA. The civil aviation security rules have been transferred from the FAA (in title 14, Code of Federal Regulations) to TSA (in title 49, Code of Federal Regulations) in a separate rulemaking (see docket number TSA-2002-11602).

Section 132(a) of ATSA requires the Under Secretary of Transportation for Security to "implement a security program for charter air carriers * * * with a maximum certificated takeoff weight of 12,500 pounds or more."

Title 49 of the Code of Federal Regulations (CFR) part 1544 requires that certain aircraft operators have security programs. These include:

- Those operating scheduled or public charter passenger operations with 61 or more passenger seats (full programs).
- Those operating scheduled or public charter passenger operations with any size aircraft that enplane passengers from or deplane passengers into a sterile area (full programs).
- Those operating scheduled or public charter operations in aircraft with 31 to 60 passenger seats (partial programs).
- Those operating private charter operations that enplane passengers from or deplane passengers into sterile areas (private charter program).

In addition, an aircraft operator that is not required to have a security program under part 1544 may request a limited program in order to carry out certain activities. For instance, certain all-cargo aircraft operators have security programs that allow them to take over from the airport certain security functions at an airport, or that allow them to perform certain security measures to facilitate transferring cargo to passenger aircraft operators.

Further, Special Federal Aviation Regulation (SFAR) 91 imposed security requirements on certain operators. See 66 FR 50531 (October 4, 2001). Paragraph 1(b) required that aircraft operations in aircraft with a maximum

certificated takeoff weight of more than 12,500 pounds carry out security procedures when notified by the Administrator of the FAA. In October 2001, the FAA notified all-cargo operators using aircraft with a maximum certificated takeoff weight of more than 95,000 pounds to carry out certain security procedures. SFAR 91 was transferred, with changes, to 49 CFR part 1550.

ATSA section 132(a) expands the number of aircraft operations that must be under a security program. It requires security measures for smaller aircraft, and for cargo aircraft, that are not required to be under security programs under current rules.

Aircraft that have a maximum certificated takeoff weight of 12,500 pounds or more generally have 18 or more passenger seats. Part 1544 does not require security programs for passenger operations in aircraft with 30 seats or fewer. Accordingly, this rule requires security programs for the operation of smaller aircraft than under current rules. Note that some aircraft operators have full programs for operation of aircraft with 30 or fewer seats to allow them to enplane from and deplane into sterile areas.

Part 1544 does not require all-cargo operators to have security programs. However, section 132(a) is not limited to passenger operations. Further, the events on September 11, 2001, demonstrate the ability to use aircraft to endanger persons on the ground. An aircraft so used is just as dangerous whether it holds cargo or passengers. Accordingly, this rule requires security programs for both passenger and all-cargo operations using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more. As noted above, some all-cargo aircraft operators currently have limited security programs under part 1544, or have security programs under § 1550.7.

Section 132(a) requires additional security measures for charter air carriers. In addition, there is no reason to apply additional security measures to charter air carriers, however, without also applying them to scheduled operations. Both carry passengers and property for hire. For both, the passengers rely on the aircraft operator to provide a safe and secure flight, and the potential for a criminal or terrorist threat against a scheduled operation is no less than against a charter operation. Accordingly, this rule applies security measures for both scheduled and charter service.

Analysis of the Amendments

These amendments incorporate the new requirements in section 132(a) of ATSA, and require aircraft operators with aircraft having a maximum certificated takeoff weight of 12,500 pounds or more to have security programs for certain operations. This rule also requires certain additional measures for operators with full and partial security programs.

Twelve-Five Security Program

This rule introduces a new security program, the twelve-five program. It applies to operations conducted in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more; in scheduled or charter service; carrying passengers or cargo or both; and not presently required to have a full program or partial security program. The contents of this new security program are similar to that for partial security programs. The main difference is that holders of twelve-five security programs are not required to participate in an airport operator-sponsored exercise of the airport contingency plan as described in § 1544.301(c). These operators are often small and conduct operations at airports without such contingency plans, or use only remote areas of airports that have them. Participation in this exercise may be very burdensome. Note that the airport operator may require any aircraft operator using its airport to participate in such exercises as a condition of using the airport.

Fingerprint-Based Criminal History Records Checks (CHRC): Flightcrew Members

Currently, under § 1544.229, individuals with unescorted access to the security identification display area (SIDA), individuals with authority to perform screening functions, and individuals with authority to perform certain checked baggage and cargo functions must undergo a CHRC. New § 1544.230 applies this same requirement to flightcrew members. "Flightcrew member" is defined in 14 CFR 1.1, and now in 49 CFR 1540.5, as a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.

It is important that TSA require additional background checks to be conducted on flightcrew who operate aircraft that could be used to endanger others. Congress has determined that fingerprint-based CHRCs are an important measure in checking the background of individuals who have access to aircraft. See 49 U.S.C. 44936.

The use of CHRCs for flightcrew will provide an additional assurance that they are suitable to carry out essential duties in the aviation system.

Section 1544.230 (a) states the scope of the section. It applies to each flightcrew member for each aircraft operator. Amendments to §§ 1544.101 and 1544.103 make clear that § 1544.230 is applicable to flightcrew members not only under a twelve-five program, but also flightcrew members for each aircraft operation under a full program, a partial program, or a private charter program, unless the individual is already subject to § 1544.229. In considering what security measures to apply to the twelve-five operators, it was apparent that the enhanced security of a CHRC for flightcrew should apply to all operations in the larger aircraft. Most flightcrew members in operations under full security programs are now subject to CHRCs under § 1544.229 because they need unescorted access to the SIDA to perform preflight inspections of their aircraft and other functions. Some flightcrew of all-cargo carriers also have undergone CHRCs because they operate in a SIDA, too. This rule, however, will require flightcrew members who operate under partial security programs or SFAR 91 security programs and those that, until now, have not operated under security programs, to undergo CHRCs. Note that this rule does not specifically apply to flightcrew for operations under limited programs. If the limited program includes access to the SIDA, however, § 1544.230 will be incorporated into the program.

Under § 1544.230, the aircraft operator must ensure that flightcrew members undergo a fingerprint-based CHRC that is largely the same as in § 1544.229. See 66 FR 63474 (December 6, 2001) and the rule (docket number TSA-2002-11602) that adopts § 1544.229 for a full discussion of these procedures.

Aircraft operators that now hold partial programs or that will hold twelve-five programs have not, for the most part, been required to carry out CHRCs in the past. They must be provided with sufficient time to learn how to perform this function and make all necessary arrangements. On the other hand, Congress made clear in ATSA section 132(a) that additional security measures must be implemented without undue delay. The compliance date for this section is December 6, 2002, which is intended to give sufficient time to perform this function without undue delay. This is the same date that operators under full programs must

complete CHRCs on certain current employees. See 66 FR 63474.

Flight Deck Privileges

Section 1544.237 requires that each aircraft operator restrict access to the flight deck, as provided in its security program. There currently are restrictions on access to the flight deck, such as 14 CFR 121.547, 121.548, and 121.550. After September 11, the FAA issued Security Directives to operators with full programs further restricting access to the flight deck to provide increased security for the flightcrew. The security program for all-cargo operators under SFAR 91 also includes increased flight deck restrictions. ATSA clearly requires that the flight deck must have additional protections. See section 104. The increased security measures for access to the flight deck provide additional protection by limiting the opportunity for an individual to endanger the flightcrew members and thereby endanger the flight.

This section incorporates such restrictions into the security program for each aircraft operator. Amendments to §§ 1544.101 and 1544.103 make clear that this section applies to all operators with full programs, partial programs, and twelve-five programs.

Paragraph (b) makes clear that this section does not restrict access for an FAA air carrier inspector or an authorized representative of the National Transportation Safety Board under 14 CFR 121.547, 121.548, 125.315, 125.317, or 135.75; or for an Agent of the United States Secret Service under 14 CFR 121.550. Further, this section does not restrict access for a Federal Air Marshal under § 1544.223. Such individuals have essential safety and security duties and, if they are authorized in accordance with 14 CFR 121, 125, or 135, or 49 CFR 1544.223, they must be admitted to the flight deck on request.

Carriage of Emergency Equipment in Alaska

TSA is aware that in the state of Alaska, operators of some aircraft of the size covered by the twelve-five program are required to carry emergency equipment to use if they must make a forced landing at a remote site. Alaska has vast areas that are accessible only by air. If an aircraft is forced to land in that kind of area, it may take some time to locate. Wildlife can pose serious threats to individuals. Alaska law provides that aircraft must have emergency equipment on board, including such things as food for each occupant sufficient to sustain life for two weeks, an axe or hatchet, a firearm, a knife,

matches, and signaling devices such as smoke bombs. See Alaska Stat. section 02.35.110. While there are exemptions from some of these requirements for larger aircraft, some aircraft subject to the twelve-five security program are required under Alaska law to have firearms, signaling devices, and other items that otherwise would not be permitted.

TSA recognizes that travel in Alaska poses unique circumstances and dangers for which the aircraft operator must be prepared. Accordingly, TSA will approve amendments to the security programs of operators in Alaska to ensure that they may comply with Alaska law and carry emergency equipment for the safety of the passengers and crew.

Good Cause for Immediate Adoption

This action is necessary to prevent a possible imminent hazard to aircraft and persons and property within the United States. Because the circumstances described herein warrant immediate action, Under Secretary of Transportation for Security finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

Paperwork Reduction Act

This emergency rule contains information collection activities subject to the Paperwork Reduction Act (44 U.S.C. 3507(d)). In accordance with the Paperwork Reduction Act, the paperwork burden associated with the rule will be submitted to the Office of Management and Budget (OMB) for review. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register** after it has been approved by the Office of Management and Budget.

Need: This rule requires aircraft operators using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more to implement an aviation security program.

Description of Respondents: All new and existing aircraft operators using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more.

Burden: TSA does not currently have concise data on which aircraft operators have aircraft 12,500 pounds or more. Accordingly, TSA will calculate the paperwork burden assuming that all aircraft operators will be subject to this

rule. Thus, these assumptions will overestimate the overall burden. In addition, TSA assumes no change in the number of aircraft operators over the next 10 years. Without this simplifying assumption, it would be impossible to estimate the total effects of these changes over the ten-year period.

Each air carrier subject to this rule will need to fingerprint all its flightcrew members; train all employees with security-related duties; acknowledge receipt of, and distribute, Security Directives and Information Circulars; and prepare, maintain, and accommodate modifications to a security program. The total ten-year burden is approximately 608,470 hours at a cost of \$14,613,040. The annual burden sums to about 60,850 hours at a cost of \$1,461,300.

TSA anticipates that the regulated entities will have to purchase no additional equipment.

Economic Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, the Regulatory Flexibility Act does not apply. TSA recognizes that this rule may impose significant costs on aircraft operators. An assessment will be conducted in the future. The current security threat requires, however, that operators take necessary measures to ensure the safety and security of their operations. This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 13132, Federalism

TSA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we

have determined that this final rule does not have Federalism implications.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when rulemaking actions are taken without the issuance of a notice of proposed rulemaking. Accordingly, TSA has not prepared a statement under the Act.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended (42 U.S.C. 6362). It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects**49 CFR Part 1540**

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1544

Air carriers, Aircraft, Aviation safety, Freight forwarders, Reporting and recordkeeping requirements, Security measures.

The Amendments

For the reasons stated in the preamble, the Transportation Security Administration amends 49 CFR chapter XII as follows:

PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

1. The authority citation for part 1540 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

2. Amend 1540.5 by adding the definition of “Flightcrew member” in alphabetical order as follows:

§ 1540.5 Terms used in this subchapter.

* * * * *

Flightcrew member means a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.

* * * * *

PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

3. The authority for part 1544 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

4. Amend § 1544.1 by revising paragraph (a)(1) to read as follows:

§ 1544.1 Applicability of this part.

(a) * * *

(1) The operations of aircraft operators holding operating certificates under 14 CFR part 119 for scheduled passenger operations, public charter passenger operations, private charter passenger operations; the operations of aircraft operators holding operating certificates under 14 CFR part 119 operating aircraft with a maximum certificated takeoff weight of 12,500 pounds or more; and other aircraft operators adopting and obtaining approval of an aircraft operator security program.

* * * * *

5. Amend § 1544.101 by revising paragraphs (c), (f), and (g), and by

adding paragraphs (d) and (e) to read as follows:

§ 1544.101 Adoption and implementation.

* * * * *

(c) *Partial program-content:* For operations described in paragraph (b) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements in § 1544.103 (c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.223, 1544.230, 1544.235, 1544.237, 1544.301, 1544.303, and 1544.305.

(2) Other provisions of subparts C, D, and E of this part that TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(d) *Twelve-five program-adoption:* Each aircraft operator must carry out the requirements of paragraph (e) of this section for each operation that meets all of the following—

(1) Is in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more;

(2) Is in scheduled or charter service;

(3) Is carrying passengers or cargo or both; and

(4) Is not under a full program or partial program under paragraph (a) or (b) of this section.

(e) *Twelve-five program-contents:* For each operation described in paragraph (d) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 (c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.223, 1544.230, 1544.235, 1544.237, 1544.301(a) and (b), 1544.303, and 1544.305.

(2) Other provisions of subparts C, D, and E that TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(f) *Private charter program:* In addition to paragraph (d) of this section, if applicable, each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.213, 1544.215, 1544.217, 1544.219, 1544.229, 1544.230, 1544.233, 1544.235, 1544.303, 1544.305, and subpart E, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter operation in which passengers are enplaned from or deplaned into a sterile area.

(g) *Limited program:* In addition to paragraph (d) of this section, if applicable, TSA may approve a security program after receiving a request by an aircraft operator holding a certificate under 14 CFR part 119, other than one identified in paragraph (a), (b), (d), or (f) of this section. The aircraft operator must—

(1) Carry out selected provisions of subparts C, D, and E;

(2) Carry out the provisions of § 1544.305, as specified in its security program; and

(3) Adopt and carry out a security program that meets the applicable requirements of § 1544.103 (c).

6. Amend § 1544.103 by revising (c)(1), (c)(15), and adding (c)(21) to read as follows:

§ 1544.103 Form, content, and availability.

* * * * *

(c) * * *

(1) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.201 regarding the acceptance and screening of individuals and their accessible property, including, if applicable, the carriage weapons as part of State-required emergency equipment.

* * * * *

(15) The procedures used to comply with the applicable requirements of §§ 1544.229 and 1544.230 regarding fingerprint-based criminal history records checks.

* * * * *

(21) The procedures used to comply with § 1544.237 regarding flight deck privileges.

* * * * *

7. Add § 1544.230 to read as follows:

§ 1544.230 Fingerprint-based criminal history records checks (CHRC): Flightcrew members.

(a) *Scope.* This section applies to each flightcrew member for each aircraft operator, except that this section does not apply to flightcrew members who are subject to § 1544.229.

(b) *CHRC required.* Each aircraft operator must ensure that each flightcrew member has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in § 1544.229(d), before allowing that individual to serve as a flightcrew member.

(c) *Application and fees.* Each aircraft operator must ensure that each flightcrew member's fingerprints are obtained and submitted as described in § 1544.229 (e) and (f).

(d) *Determination of arrest status.* (1) When a CHRC on an individual

described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before the individual may serve as a flightcrew member. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must suspend the individual's flightcrew member privileges not later than 45 days after obtaining a CHRC, unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (d)(1) and (d)(2) of this section for individuals whom it is using, or will use, as a flightcrew member. The aircraft operator may not make determinations for individuals described in § 1542.209(a) of this chapter.

(e) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny the individual the ability to serve as a flightcrew member, the aircraft operator must advise the individual that the FBI criminal record discloses information that would disqualify the individual from serving as a flightcrew member and provide the individual with a copy of the FBI record if the individual requests it.

(2) The aircraft operator must notify the individual that a final decision has been made to allow or deny the individual flightcrew member status.

(3) Immediately following the denial of flightcrew member status, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her flightcrew member status, and provide the

individual with a copy of the FBI record if he or she requests it.

(f) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to allowing the individual to serve as a flightcrew member.

(2) If no notification, as described in paragraph (f)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny the individual flightcrew member status.

(g) *Limits on the dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section. No person may disseminate the results of a CHRC to anyone other than—

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Others designated by TSA.

(h) *Recordkeeping.* (1) *Fingerprint application process.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(2) *Protection of records.* The records required by this section must be maintained by the aircraft operator in a manner that is acceptable to TSA that protects the confidentiality of the individual.

(3) *Duration.* The records identified in this section with regard to an individual must be made available upon request by TSA, and maintained by the aircraft operator until 180 days after the termination of the individual's privileges to perform flightcrew member duties with the aircraft operator. When files are no longer maintained, the aircraft operator must destroy the CHRC results.

(i) *Continuing responsibilities.* (1) Each flightcrew member identified in paragraph (a) of this section who has a disqualifying criminal offense must report the offense to the aircraft operator within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(2) If information becomes available to the aircraft operator indicating that a flightcrew member identified in paragraph (a) of this section has a possible conviction for any disqualifying criminal offense in § 1544.229 (d), the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed, the aircraft operator may not assign that individual to flightcrew duties in operations identified in paragraph (a).

(j) *Aircraft operator responsibility.* The aircraft operator must—(1) Designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the CHRC results.

(3) Designate an individual(s) at appropriate locations to receive notification from individuals of their intent to seek correction of their FBI criminal record.

(k) *Compliance date.* Each aircraft operator must comply with this section for each flightcrew member described in paragraph (a) of this section not later than December 6, 2002.

8. Add § 1544.237 to subpart C to read as follows:

§ 1544.237 Flight deck privileges.

(a) For each aircraft that has a door to the flight deck, each aircraft operator must restrict access to the flight deck as provided in its security program.

(b) This section does not restrict access for an FAA air carrier inspector, an authorized representative of the National Transportation Safety Board, or for an Agent of the United States Secret Service, under 14 CFR parts 121, 125, or 135. This section does not restrict access for a Federal Air Marshal under this part.

Issued in Washington, DC on February 15, 2002.

John W. Magaw,

Under Secretary of Transportation for Security.

[FR Doc. 02-4235 Filed 2-19-02; 10:09 am]

BILLING CODE 4910-62-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 011218303-1303-01; I.D. 110501B]

RIN 0648-AP70

Atlantic Highly Migratory Species; Commercial Shark Management Measures; Correction

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

ACTION: Fishing season notification; correction.

SUMMARY: NMFS published a document in the **Federal Register** of December 28, 2001, notifying eligible participants of the opening and closing dates for the Atlantic small coastal sharks, pelagic sharks, blue sharks, and porbeagle sharks fishing seasons. The document inadvertently specified dates that referred to the fishing seasons in 2001 instead of 2002. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz at 301-713-2347.

SUPPLEMENTARY INFORMATION:**Correction:**

In rule FR Doc. 01-31832, published on December 28, 2001, (66 FR 67118) the following correction is made. On page 67118, in the third column, correct the third paragraph of the **DATES** section to read: "The fishery opening for SCS, pelagic sharks, blue sharks, and porbeagle sharks is effective January 1, 2002, through June 30, 2002, unless otherwise modified or superseded through a publication in the **Federal Register**."

Dated: February 15, 2002.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-4276 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

Rules and Regulations

Federal Register

Vol. 67, No. 36

Friday, February 22, 2002

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-053-3]

Black Stem Rust; Identification Requirements and Addition of Rust-Resistant Varieties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the black stem rust quarantine and regulations to require that persons who request the addition of *Berberis*, *Mahoberberis*, or *Mahonia* spp. plants to the list of rust-resistant varieties in the regulations must provide the Agency with a description of the variety that can be used by inspectors to clearly identify the variety and distinguish it from others. We are also amending the regulations to require that inspectors verify, prior to interstate movement, that varieties match their description. Finally, we are amending the regulations to add 32 new varieties to the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species. This rule will help prevent the spread of black stem rust by providing for and requiring the accurate identification of rust-resistant varieties by inspectors and will provide for the interstate movement of newly developed varieties without unnecessary restrictions.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal S. Malik, Agriculturist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1231; (301) 734-6774.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infected wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis*, *Mahoberberis*, and *Mahonia*. The fungus is spread from host to host by wind-borne spores.

The black stem rust quarantine and regulations, which are contained in 7 CFR 301.38 through 301.38-8 (referred to below as the regulations), quarantine the conterminous 48 States and the District of Columbia and govern the interstate movement of certain plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development of new races of the rust; rust-susceptible plants do pose such risks.

Section 301.38-2 of the regulations includes a listing of regulated articles and indicates those species and varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia* that are known to be rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate.

On April 7, 1998, we published in the **Federal Register** (63 FR 16908-16909, Docket No. 97-053-1) a proposed rule to amend the regulations by adding 15 varieties to the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species. Comments on the proposed rule were required to be received on or before May 22, 1998. We received two comments by that date, which were from the nursery industry and a State government official. One of the commenters opposed the addition of more rust-resistant barberry varieties to the list in § 301.38-2 without the distribution of proper field identification aids to inspectors. After considering that comment, we agreed with the commenter's suggestion that identification aids could be useful for ensuring the accurate identification of the rust-resistant varieties, which would

help to prevent the spread of black stem rust. Because this comment raised an issue we believed warranted further consideration, we withdrew the April 7, 1998, proposed rule, and replaced it with an alternative proposal.

In the alternative proposal, which was published in the **Federal Register** on June 14, 2001 (66 FR 32268-32272, Docket No. 97-053-2), we proposed to amend the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species by adding the 15 varieties listed in our original proposed rule as well as an additional 17 varieties that had been submitted for listing since the publication of the original proposed rule. We also proposed to amend the regulations to require that persons who request the Animal and Plant Health Inspection Service (APHIS) to add a variety to the list of rust-resistant barberry varieties in the regulations must provide APHIS with a description of the variety, including a written description and color pictures that can be used by State nursery inspectors to clearly identify the variety and distinguish it from other varieties. As noted in the proposed rule, the nurseries that developed the 32 new rust-resistant varieties listed in the proposed rule had provided such identification guides to APHIS. Finally, we proposed to require that inspectors who issue certificates for the movement of rust-resistant barberry varieties under the regulations in § 301.38-4(b)(2) must, prior to issuing certificates, verify that the barberry varieties to be shipped match the description of the varieties.

We solicited comments concerning our June 2001 proposal for 60 days ending August 13, 2001. We received two comments by that date. They were from a national nursery and landscape association and a State department of agriculture. These letters fully supported the proposed rule. Therefore, we are not making any changes to the rule based on the comments we received. However, we are making three changes to the rule in order to clarify certain aspects of the regulations.

First, while a footnote in the definition of *rust-resistant plants* in § 301.38-1 provides a description of the testing performed to determine whether a new variety is rust-resistant, the regulations have not specifically provided that a person may request that an additional rust-resistant variety be added to the lists of rust-resistant

varieties in § 301.38–2. Similarly, while our June 2001 proposed rule contained provisions to require that a person requesting a rust-resistant variety be added to the list in § 301.38–2 provide APHIS with certain information regarding the variety, we did not specifically state that a person may request that an additional rust-resistant variety be added to that list. We do, in fact, accept requests for additions to the lists in § 301.38–2, so we have amended § 301.38–2(b) in this final rule to make that clear.

Second, in our June 2001 proposed rule, we proposed to amend § 301.38–5 by adding a new paragraph (b)(3). Under that proposed paragraph, an inspector would have to verify, prior to issuing a certificate for the interstate movement of a rust-resistant variety, that the variety matches the description provided to APHIS by the person who requested the addition of that variety to the list in § 301.38–2. Given that the existing regulations in § 301.38–5(b)(1) already provide that an inspector must determine, upon examination, that the regulated article may be moved in accordance with § 301.38–4, which would include verifying that a particular variety is eligible for movement, we have determined that our proposed amendment to § 301.38–5 is unnecessary and have removed that provision in this final rule. However, we are amending § 301.38–5(b)(1) in this final rule so that it states that an inspector must determine, upon examination, that the regulated article may be moved interstate in accordance with the regulations in the entire subpart, not just § 301.38–4. This amendment is necessary because there are requirements elsewhere in the subpart that apply to the interstate movement of regulated articles.

Third, while our June 2001 proposed rule contained provisions to require that descriptions be provided to APHIS in accordance with § 301.38–2(b) for use by State nursery inspectors as identification aids, those individuals who inspect varieties of black stem rust barberry are simply referred to as inspectors elsewhere in the regulations. The definition of an inspector, which is contained in § 301.38–1, provides that such individuals may be any APHIS employee or other person authorized by the Administrator to enforce this subpart. Because State nursery inspectors are included in this definition, we have amended § 301.38–2(b) in this final rule by removing the reference to “State nursery inspectors” and replacing it with “an inspector” in order to make the regulations more consistent.

Finally, in this final rule we have made several nonsubstantial editorial changes in the regulations for clarity.

Executive Order 12866 and Regulatory Flexibility Act

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

This final rule allows the interstate movement of 32 new varieties of *Berberis*, *Mahoberberis*, and *Mahonia* that have been determined to be resistant to black stem rust into and through States or parts of States designated as protected areas. Based on the information provided to us, we have determined that this rule will affect three or four nurseries that might propagate the new species and numerous retail sales nurseries that might purchase and resell the varieties. This action will enable those nurseries to move the species into and through protected areas and to propagate and sell the species in States or parts of States designated as protected areas.

Prior to this final rule, 123 varieties of barberry plants were listed in the regulations as rust-resistant. Of those 123 varieties, many are no longer propagated for commercial sale, as many consumers are choosing newer varieties that are horticulturally more attractive. This rule adds 32 new varieties to the list. The addition of these 32 new varieties will simply create a greater selection of barberry plant varieties from which consumers can choose. This rule could encourage innovation by allowing nurseries that develop new rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* varieties the opportunity to market those varieties in protected areas; however, there is no indication that the periodic introduction of new varieties to the market has any effect on overall sales volumes. Therefore, we do not anticipate that there will be any significant economic effect on those nurseries that might handle the new varieties.

This rule requires that persons requesting the addition of a barberry variety to the list of rust-resistant varieties in the regulations must first provide APHIS with a description of the variety, including a written description and color pictures that can be used by inspectors to clearly identify the variety and distinguish it from other varieties. This rule also requires that, prior to interstate movement, an inspector must verify that a rust-resistant variety matches the description of the variety

provided to APHIS. However, these requirements are not expected to result in any measurable cost to persons involved in the production or movement of the plants.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0186.

List of Subjects in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

2. Section 301.38–1 is amended as follows:

a. In the definition for *rust-resistant plants*, by removing the citation “§ 301.38–2(b) and (c)” and adding the

citation “§ 301.38–2 (a)(2) and (a)(3)” in its place.

b. In the definition for *rust-susceptible plants*, by removing the citation “§ 301.38–2(b) and (c)” and adding the citation “§ 301.38–2(a)(2) and (a)(3)” in its place.

c. In the definition for *regulated article*, by removing the citation “§ 301.38–2(a) through (d)” and adding the citation “§ 301.38–2(a)(1) through (a)(4)” in its place, and by removing the citation “§ 301.38–2(e)” and adding the citation “§ 301.38–2(a)(5)” in its place.

3. Section 301.38–2 is revised to read as follows:

§ 301.38–2 Regulated articles.

(a) The following are regulated articles:³

(1) All seedlings and plants of less than 2 years' growth of the genus *Berberis*.

(2) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Berberis* species.

B. aggregata x *B. wilsoniae* 'Pirate King'

B. 'Amstelveen'
B. aridocalida
B. beaniana
B. buxifolia
B. buxifolia nana
B. calliantha
B. candidula
B. candidula 'Amstelveen'
B. candidula x *B. verruculosa* 'Amstelveen'
B. cavallieri
B. chenaulti
B. chanaulti 'Apricot Queen'
B. circumserrata
B. concinna
B. coxii
B. darwini
B. dasystachya
B. dubia
B. feddeana
B. formosana
B. franchetiana
B. gagnepainii
B. gagnepaini 'Chenault'
B. gilgiana
B. gladwynensis
B. gladwynensis 'William Penn'
B. gyalica
B. heterophylla
B. horvathi
B. hybrido-gagnepaini
B. insignis
B. integerrima 'Wallichs Purple'
B. julianae
B. julianae 'Nana'
B. julianae 'Spring Glory'

B. koreana
B. koreana x *B. thunbergii* hybrid
Bailse
B. koreana x *B. thunbergii* hybrid
Tara
B. lempergiana
B. lepidifolia
B. linearifolia
B. linearifolia var. 'Orange King'
B. lologensis
B. lologensis 'Mystery Fire'
B. manipurana
B. media 'Park Jewel'
B. media 'Red Jewel'
B. mentorensis
B. pallens
B. poiretii 'BJG 073', 'MTA'
B. potanini
B. Renton
B. replicata
B. sanguinea
B. sargentiana
B. sikkimensis
B. soulieana 'Claret Cascade'
B. stenophylla
B. stenophylla diversifolia
B. stenophylla gracilis
B. stenophylla irwini
B. stenophylla nana compacta
B. taliensis
B. telomaica artispala
B. thunbergii
B. thunbergii 'Antares'
B. thunbergii argenteo marginata
B. thunbergii atropurpurea
B. thunbergii atropurpurea erecta
B. thunbergii atropurpurea erecta
Marshalli
B. thunbergii atropurpurea 'Golden Ring'
B. thunbergii atropurpurea 'Intermedia'
B. thunbergii atropurpurea 'Knight Burgundy'
B. thunbergii atropurpurea nana
B. thunbergii atropurpurea 'Redbird'
B. thunbergii atropurpurea 'Rose Glow'
B. thunbergii aurea
B. thunbergii 'Aurea Nana'
B. thunbergii 'Bagatelle'
B. thunbergii 'Bailgreen' (Jade Carousel™)
B. thunbergii 'Bailone'
B. thunbergii 'Bailone' (Ruby Carousel®)
B. thunbergii 'Bailtwo'
B. thunbergii 'Bailtwo' (Burgundy Carousel®)
B. thunbergii 'Bonanza Gold'
B. thunbergii 'Concorde'
B. thunbergii 'Crimson Pygmy'
B. thunbergii 'Cruzam' Crimson Ruby™
B. thunbergii 'Dwarf Jewel'
B. thunbergii erecta
B. thunbergii 'globe'
B. thunbergii 'golden'
B. thunbergii 'Golden Pygmy'

B. thunbergii 'Green Carpet'
B. thunbergii 'Harlequin'
B. thunbergii 'Helmond Pillar'
B. thunbergii 'Kobold'
B. thunbergii 'Lime Glow'
B. thunbergii 'Lustre Green'
B. thunbergii maximowiczii
B. thunbergii 'Midruzam' Midnight Ruby™

B. thunbergii minor
B. thunbergii 'Monlers'
B. thunbergii 'Monomb'
B. thunbergii 'Monry'
B. thunbergii 'Painter's Palette'
B. thunbergii 'Pink Queen'
B. thunbergii pluriflora
B. thunbergii 'Royal Burgundy'
B. thunbergii 'Royal Cloak'
B. thunbergii 'Sparkle'
B. thunbergii 'Thornless'
B. thunbergii 'Upright Jewel'
B. thunbergii variegata
B. thunbergii xanthocarpa
B. thunbergii x 'Bailse' (Golden Carousel®)

B. thunbergii x 'Tara' (Emerald Carousel®)

B. triacanthophora
B. triculosa
B. verruculosa
B. virgatorum
B. workingensis
B. xanthoxylon
B. x carminea 'Pirate King'
B. x frikartii 'Amstelveen'

(3) All plants, seedlings, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant *Mahoberberis* and *Mahonia* species, except *Mahonia* cuttings for decorative purposes:

(i) Genus *Mahoberberis*:

M. aquicandidula
M. aquifolium 'Smaragd'
M. aquisargentiae
M. miethkeana
M. x 'Magic'
(ii) Genus *Mahonia*:
M. amplexans
M. aquifolium
M. aquifolium atropurpurea
M. aquifolium compacta
M. aquifolium compacta 'John Muir'
M. aquifolium 'Donewell'
M. aquifolium 'Kings Ransom'
M. aquifolium 'Orangee Flame'
M. aquifolium 'Undulata'
M. aquifolium 'Winter Sun'
M. 'Arthur Menzies'

M. bealei
M. dictyota
M. fortunei
M. 'Golden Abundance'
M. japonica
M. japonica x *M. lomariifolia* 'Charity'
M. lomariifolia
M. nervosa
M. pinnata
M. pinnata 'Ken Hartman'

³ Permit and other requirements for the interstate movement of black stem rust organisms are contained in part 330 of this chapter.

M. piperiana
M. pumila
M. repens
M. x media 'Charity'
M. x media 'Winter Sun'

(4) All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, and seedlings from rust-susceptible species and varieties of the genera *Mahoberberis* and *Mahonia*, except *Mahonia* cuttings for decorative purposes.

(5) Any other product or article not listed in paragraphs (a)(1) through (a)(4) of this section that an inspector determines presents a risk of spread of black stem rust. The inspector must notify the person in possession of the product or article that it is subject to the provisions of this subpart.

(b) A person may request that an additional rust-resistant variety be added to paragraph (a)(2) or (a)(3) of this section. The person requesting that a rust-resistant variety be added to paragraph (a)(2) or (a)(3) of this section must provide APHIS with a description of the variety, including a written description and color pictures that can be used by an inspector to clearly identify the variety and distinguish it from other varieties. (Approved by the Office of Management and Budget under control number 0579-0186.)

§ 301.38-4 [Amended]

4. Section 301.38-4 is amended as follows:

a. In paragraph (b)(2)(i), by removing the citation "§ 301.38-2(b)" and adding the citation "§ 301.38-2(a)(2)" in its place.

b. In paragraph (b)(2)(ii), by removing the citation "§ 301.38-2(c)" and adding the citation "§ 301.38-2(a)(3)" in its place.

§ 301.38-5 [Amended]

5. In § 301.38-5, paragraph (b)(1), the citation "§ 301.38-4" is removed and the words "this subpart" are added in its place.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-4262 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00-006-3]

Importation of Fruits and Vegetables; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule published in the **Federal Register** on August 28, 2001, we amended the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. In that final rule, we also recognized the Department of Petén in Guatemala and all Districts in Belize as areas free of the Mediterranean fruit fly. The final rule contained an error in the rule portion. This document corrects that error. We are also clarifying that peppers imported from Israel under the regulations must be packed in insect-proof packaging prior to movement from approved insect-proof screenhouses in the Arava Valley.

DATES: Effective on February 22, 2002.

FOR FURTHER INFORMATION CONTACT: Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56-8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of fruit flies and other injurious plant pests that are new to or not widely distributed within the United States.

In a final rule published in the **Federal Register** on August 28, 2001 (66 FR 45151-45161, Docket No. 00-006-2), we amended the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. In that final rule, we also recognized the Department of Petén in Guatemala and all Districts in Belize as areas free of the Mediterranean fruit fly (Medfly).

One of the commodities listed as eligible for importation was peppers

from Israel. As a condition of importation, the rule required that the "peppers must be packed in insect-proof containers prior to movement from approved insect-proof screenhouses in the Arava Valley." Some regulated entities have interpreted "containers" to mean the large containers commonly used in the shipping industry. We intended to require peppers to be moved in insect-proof packaging, not shipping containers. Therefore, in order to avoid confusion, we are replacing the term "containers" with the word "packaging."

Also, in the rule portion of the final rule, there was an error in the table in § 319.56-2x, which lists fruits and vegetables for which treatment is required. The table listed papaya from Belize except for papayas grown in a Medfly-free area in Belize. Since the final rule declared all districts in Belize as areas free of Medfly, no papayas from Belize require treatment for Medfly, and there is no need to list papaya from Belize in the table in § 319.56-2x. We are correcting our error in this document.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 166, 450, 7711-7714, 7718, 7731, 7732, and 7751-7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.56-2u [Amended]

2. In § 319.56-2u, paragraph (b)(7) is amended by removing the word "containers" and adding the word "packaging" in its place.

§ 319.56-2x [Amended]

3. In § 319.56-2x, paragraph (a), the table is amended by removing the entry for Belize.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-4263 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01-094-2]

Change in Disease Status of Japan Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding Japan to the list of regions where bovine spongiform encephalopathy exists because the disease had been detected in a native-born animal in that region. The effect of the interim rule was a restriction on the importation of ruminants that have been in Japan and meat, meat products, and certain other products of ruminants that have been in Japan. The interim rule was necessary in order to help prevent the introduction of bovine spongiform encephalopathy into the United States.

EFFECTIVE DATE: The interim rule became effective on September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export,

Sanitary Issues Management Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective September 10, 2001, and published in the **Federal Register** on October 16, 2001 (66 FR 52483-52484, Docket No. 01-094-1), we amended the regulations by adding Japan to the list in § 94.18(a)(1) of regions where bovine spongiform encephalopathy (BSE) is known to exist. Due to the detection of BSE in a native-born animal in that region, the interim rule was necessary to help prevent the introduction of BSE into the United States.

Comments on the interim rule were required to be received by December 17, 2001. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988 and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by adding

Japan to the list of regions where BSE exists because the disease had been detected in a native-born animal in that region. The effect of the interim rule was a restriction on the importation of ruminants that have been in Japan and meat, meat products, and certain other products of ruminants that have been in Japan. The interim rule was necessary to help prevent the introduction of BSE into the United States.

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

The interim rule is expected to have an insignificant impact on U.S. entities because ruminants and ruminant products are either not imported from Japan or imported in very small amounts, as shown in table 1. The only category of commodities that Japan has been supplying in greater-than-negligible amounts is animal feed preparations other than dog and cat food (Harmonized Tariff Schedule 230990). For this category, Japan supplied about 5 percent of imports, by value, over the 3-year period 1998-2000. However, this level is not significant, particularly when considered in terms of the value of U.S. domestic shipments of animal feed preparations other than dog and cat food.

TABLE 1.—THE VALUE OF U.S. IMPORTS OF RUMINANTS AND RUMINANT PRODUCTS FROM JAPAN, 1998-2000

	Imports from Japan (million dollars)	Total imports (million dollars)	Percentage from Japan
Live ruminants:			
Bovine		\$3,312	0
Sheep and goats		17	0
Meat and meat byproducts:			
Beef fresh/chilled	\$2.000	2,760	0.07
Beef frozen		2,977	0
Sheep or goat meat		575	0
Edible animal offal		251	0
Salted or dried bovine meat		9	0
Other of animal origin	1.000	224	0.45
Sausage and similar prepared meat		56	0
Other bovine meat	0.006	651	<0.01
Animal feed: dogs and cats	0.074	413	0.02
Animal feed: other	36.000	681	5.29

Source: U.S. Bureau of the Census, as reported in the World Trade Atlas.

The average annual value of imports of ruminants and ruminant products from Japan between 1998 and 2000 was approximately \$12 million. This amount is less than 0.1 percent of \$19.17 billion, the value of U.S. shipments of animal feed preparations other than dog and cat food in 1997 (the year of the last

economic census conducted by the Bureau of the Census).

The Regulatory Flexibility Act requires that agencies consider the effects of their rules on small entities. An industry that could be affected by the interim rule is Other Animal Food Manufacturing (NAICS code 311119),

for which the small entity criterion is 500 or fewer employees. The 1997 Economic Census reports that all of the 1,514 Other Animal Food Manufacturing establishments had 500 or fewer employees. However, the relatively small quantity of animal feed preparations other than dog and cat food

imported from Japan would suggest that the number of these establishments affected would not be substantial, and those that are would not be affected significantly.

The interim rule's restrictions on the importation of ruminants and ruminant products and byproducts from Japan due to BSE are expected to have an insignificant effect on small entities. The only category of prohibited products for which Japan has a history of export to the United States of greater-than-negligible value is animal feed preparations other than dog and cat food. However, imports of these products from Japan comprise less than 0.1 percent of U.S. domestic shipments.

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

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.

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

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 66 FR 52483–52484 on October 16, 2001.

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.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4261 Filed 2–21–02; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T]

Credit by Brokers and Dealers; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Foreign Margin Stocks (Foreign List) is composed of certain foreign equity securities that qualify as *margin securities* under Regulation T. The Foreign List is published twice a year by the Board.

EFFECTIVE DATE: March 1, 2002.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Financial Analyst, Division of Banking Supervision and Regulation, (202) 452–2837, or Scott Holz, Senior Counsel, Legal Division, (202) 452–2966, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Listed below is a complete edition of the Board's Foreign List. The Foreign List was last published on August 24, 2001 (66 FR 44525), and become effective September 1, 2001.

The Foreign List is composed of foreign equity securities that qualify as margin securities under Regulation T by meeting the requirements of § 220.11(c) and (d). Additional foreign securities qualify as margin securities if they are deemed by the Securities and Exchange Commission (SEC) to have a “ready market” under SEC Rule 15c3–1 (17 CFR 240.15c3–1) or a “no-action” position issued thereunder. This includes all foreign stocks in the FTSE World Index Series.

It is unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on the Foreign List is evidence that the Board or the SEC has in any way passed upon the merits of, or given approval to, such security or any transactions therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with the Foreign List or the stocks thereon shall be an unlawful representation.

There are not additions to the Foreign List. The following six stocks are being removed because they no longer substantially meet the provisions of § 220.11(d) of Regulation T:

Hitachi Transport System, Ltd., ¥50 par common
Hokuetsu Bank, Ltd., ¥50 par common
Kiyo Bank, Ltd., ¥50 par common
Max Co., Ltd., ¥50 par common
Ryosan Co., Ltd., ¥50 par common
Yamanashi Chuo Bank, Ltd., ¥50 par common

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public

participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Foreign List specified in § 220.11(c) and (d). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in a part upon the composition of the Foreign List as soon as possible. The Board has responded to a request by the public and allowed approximately a one-week delay before the Foreign List is effective.

List of Subjects in 12 CFR Part 220

Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 220.2 and 220.11, there is set forth below a complete edition of the Foreign List.

Japan

Akita Bank, Ltd., ¥50 par common
Aomori Bank, Ltd., ¥50 par common
Asatsu–DK Inc., ¥50 par common
Bandai Co., Ltd., ¥50 par common
Bank of Nagoya, Ltd., ¥50 par common
Chudenko Corp., ¥50 par common
Chugoku Bank, Ltd., ¥50 par common
Clarion Co., Ltd., ¥50 par common
Daihatsu Motor Co., Ltd., ¥50 par common
Dainippon Screen Mfg. Co., Ltd., ¥50 par common
Denki Kagaku Kogyo, ¥50 par common
Eighteenth Bank, Ltd., ¥50 par common
Futaba, Corp., ¥50 par common
Futaba Industrial Co., Ltd., ¥50 par common
Higo Bank, Ltd., ¥50 par common
Hitachi Software Engineering Co., Ltd., ¥50 par common
Hokkoku Bank, Ltd., ¥50 par common
Hokuetsu Paper Mills, Ltd., ¥50 par common
Iyo Bank, Ltd., ¥50 par common
Japan Airport Terminal Co., Ltd., ¥50 par common
Juroku Bank, Ltd., ¥50 par common
Kagoshima Bank, Ltd., ¥50 par common
Kamigumi Co., Ltd., ¥50 par common
Katokichi Co., Ltd., ¥50 par common
Keisei Electric Railway Co., Ltd., ¥50 par common
Keiyo Bank, Ltd., ¥50 par common
Komori Corp., ¥50 par common
Konami Co., Ltd., ¥50 par common
Kyowa Exeo Corp., ¥50 par common
Matsushita Seiko Co., Ltd., ¥50 par common
Michinoku Bank, Ltd., ¥50 par common
Musashino Bank, Ltd., ¥50 par common

Namco, Ltd., ¥50 par common
 Nichicon Corp., ¥50 par common
 Nihon Unisys, Ltd., ¥50 par common
 Nippon Comsys Corp., ¥50 par common
 Nishi-Nippon Bank, Ltd., ¥50 par common
 Nishi-Nippon Railroad Co., Ltd., ¥50 par common
 Nissan Chemical Industries, Ltd., ¥50 par common
 Ogaki Kyoritsu Bank, Ltd., ¥50 par common
 Q.P. Corp., ¥50 par common
 Rinnai Corporation, ¥50 par common
 Sagami Railway Co., Ltd., ¥50 par common
 Sakata Seed Corp., ¥50 par common
 Santen Pharmaceutical Co., Ltd., ¥50 par common
 Shimadzu Corp., ¥50 par common
 Shimamura Co., Ltd., ¥50 par common
 Sumitomo Rubber Industries, Ltd., ¥50 par common
 Taiyo Yuden Co., Ltd., ¥50 par common
 Takara Standard Co., Ltd., ¥50 par common
 Takuma Co., Ltd., ¥50 par common
 Toho Bank, Ltd., ¥50 par common
 Toho Gas Co., Ltd., ¥50 par common
 Tokyo Ohka Kogyo Co., Ltd., ¥50 par common
 Uni-Charm Corp., ¥50 par common
 Ushio, Inc., ¥50 par common
 Yamaha Motor Co., Ltd., ¥50 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), February 19, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02-4265 Filed 2-21-02; 8:45 am]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 206

Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, Trade Diversion, and Review of Relief Actions

AGENCY: International Trade Commission.

ACTION: Interim rules with request for comments.

SUMMARY: The United States International Trade Commission (Commission) is amending its rules of practice and procedure on an interim basis and requests comments on the amendments. These amendments are necessary to implement provisions of Public Law 106-286 that require the Commission to conduct new types of investigations of market disruption or trade diversion and reviews of relief actions. The intended effect of the amendments is to establish procedures for the new kinds of investigations and reviews that closely track the procedures for investigations and

reviews under certain other existing laws.

DATES: *Effective Date:* February 22, 2002.

Comment Date: Comments are due by 5:15 p.m. on April 23, 2002.

ADDRESSES: A signed original and 8 copies of each set of comments should be mailed or hand-delivered to Marilyn R. Abbott, Acting Secretary, United States International Trade Commission, 500 E Street, SW, Room 112, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: P. N. Smitley, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202-205-3086. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding the interim amendments the Commission is making to its Rules of Practice and Procedure. The preamble begins with a discussion of the background of the rulemaking, then explains why an interim rulemaking procedure was adopted, provides an overview and a section-by-section analysis of the interim amendments, and ends with a regulatory analysis addressing government-wide statutes and issuances on rulemaking. The Commission encourages members of the public to comment—in addition to any other comments they wish to make on the rules amendments—on whether the interim amendments are in language that is sufficiently plain for users of the rules to understand.

Background

Public Law 106-286 [H.R. 4444], 114 Stat. 880, was signed by the President on October 10, 2000. Section 103(a) of the law added new sections 421 and 422 to the Trade Act of 1974 (19 U.S.C. 2451 and 2451a) that require the Commission to conduct new kinds of investigations and reviews of relief actions.

New section 421(b) of the Trade Act requires the Commission to investigate, in specified circumstances, “to determine whether products of the People’s Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.”

The President may provide relief, under section 421(a), in the form of increased duties and/or other import restrictions with respect to the product being imported from the People’s Republic of China. He will grant such relief to the extent and for the period that he considers necessary to prevent or remedy the market disruption. Starting six months after the relief first takes effect, the President may request a report from the Commission, under section 421(n)(1), on the probable effect that modification, reduction, or termination of the relief would have on the relevant domestic industry. Section 421(n)(3) provides that when the President issues relief under section 421(a), the Commission must collect such data as is necessary to enable it to respond rapidly to a request by the President under section 421(n)(1).

Within a specified time before the relief is to terminate, section 421(o) requires the Commission to investigate, at the request of the President or in response to a petition on behalf of the industry concerned, to determine whether action under section 421 continues to be necessary to prevent or remedy market disruption.

The new section 422(b) of the Trade Act requires the Commission to investigate, in appropriate circumstances, to determine whether an action of a type described in section 422(c) “has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States.” Section 422(c) indicates that an “action” for purposes of section 422(b) is an action—(1) By the People’s Republic of China to prevent or remedy market disruption in a WTO [World Trade Organization] member other than the United States; (2) by a WTO member other than the United States to withdraw concessions under the WTO Agreement or otherwise to limit imports to prevent or remedy market disruption; (3) by a WTO member other than the United States to apply a provisional safeguard within the meaning of the product-specific safeguard provision of the Protocol of Accession of the People’s Republic of China to the WTO; or (4) any combination of actions described in paragraphs (1) through (3).

The President determines, pursuant to section 422(h), what action to take to prevent or remedy the trade diversion or threat thereof. Section 422(j) requires the Commission to review the continued need for action taken under section 422(h) if the World Trade Organization (WTO) member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the

People's Republic of China pursuant to consultation referred to in section 422(a). Specifically, the Commission must determine whether a significant diversion of trade continues to exist. After receiving the Commission's report on that subject, the President will determine whether to modify, withdraw, or keep in place the action taken under section 421(h).

The Procedure for Adopting the Interim Amendments

The Commission ordinarily promulgates amendments to the Code of Federal Regulations in accordance with the rulemaking procedure in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). That procedure entails publishing a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed amendments, considering the public comments in deciding on the final content of the amendments, and publishing the final amendments at least 30 days prior to their effective date. In this instance, however, the Commission is amending its rules in 19 CFR part 206 on an interim basis, effective upon publication of this notice in the **Federal Register**.

The Commission's authority to adopt interim amendments without following all steps listed in section 553 of the APA is derived from section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) and section 553 of the APA.

Section 335 of the Tariff Act authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties. The Commission has determined that the need for interim rules is clear in this instance. The new sections 421 and 422 of the Trade Act require the Commission to conduct new kinds of investigations and reviews. Rulemaking is essential for orderly administration of the new statutory provisions. Since the People's Republic of China acceded to the WTO on December 11, 2001, it is imperative that implementing rules be adopted as quickly as possible.

Section 553(b) of the APA allows an agency to dispense with publication of a notice of proposed rulemaking when the following circumstances exist: (1) The rules in question are interpretive rules, general statements of policy, or rules of agency organization, procedure or practice; or (2) the agency for good cause finds that notice and public comment on the rules are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates that finding and the reasons therefor into the rules adopted by the agency.

Section 553(d)(3) of the APA allows an agency to dispense with the publication of notice of final rules at least thirty days prior to their effective date if the agency finds that good cause exists for not meeting the advance publication requirement and the agency publishes that finding along with the rules.

In this instance, the Commission has determined that the requisite circumstances exist for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of Commission rules. For purposes of invoking the section 553(b) exemption from publishing a notice of proposed rulemaking that solicits public comment, the Commission finds that the interim amendments to part 206 are "agency rules of procedure and practice." Moreover, the People's Republic of China's accession to the WTO on December 11, 2001, a date that could not be predicted sufficiently far in advance, makes the establishment of rules a matter of urgency. Hence, it clearly would have been impracticable for the Commission to comply with the notice of proposed rulemaking and public comment procedure.

For the purpose of invoking the section 553(d)(3) exemption from publishing advance notice of the interim amendments to part 206 at least thirty days prior to their effective date, the Commission finds that the fact that the People's Republic of China acceded to the WTO on December 11, 2001 makes such advance publication impossible and constitutes good cause for not complying with that requirement.

The Commission recognizes that interim rule amendments should not respond to anything more than the exigencies created by the new legislation. Each interim amendment to part 206 accordingly falls into one or more of the following categories: (1) A revision of a preexisting rule to make it applicable to one or more of the new kinds of investigations or reviews of relief actions; (2) clarification of the manner in which a preexisting rule is to be applied to one or more of the new kinds of investigations or reviews; or (3) a new rule covering a matter addressed in the new legislation but not covered by a preexisting rule.

After taking into account all comments received and the experience acquired under the interim amendments, the Commission will replace them with final amendments promulgated in accordance with the notice, comment, and advance publication procedure prescribed in section 553 of the APA.

Overview of the Interim Amendments

Until the publication of this notice, part 206 of the Commission's rules consisted of subpart A, which set out general requirements applicable to all investigations covered by the part, and subparts B–F, each of which established procedures for a particular type of investigation.

Among other things, the Commission is amending subpart A to extend the coverage of part 206 to investigations and reviews of relief actions under the new section 421 or 422 of the Trade Act.

Before this notice was published, subpart E of part 206 covered only market disruption investigations under section 406(a) of the Trade Act of 1974. The new investigations under section 421(b) also will address market disruption and will be similar, though not identical, to the investigations under section 406(a). For that reason, the Commission is amending subpart E to cover investigations under section 421(b) (in addition to investigations under section 406(a)). The Commission also is amending subpart E to cover investigations under section 421(o) on whether action under section 421 continues to be necessary to prevent or remedy market disruption.

The new investigations under section 422(b) concerning trade diversion—and the reviews under section 422(j) on whether there is a continued need for action taken under section 422(h)—do not so closely fit an existing subpart of part 206. For that reason, the Commission is adding a new subpart G to cover investigations under section 422(b) and reviews under section 422(j). Nevertheless, the procedures in subpart G closely track those in other subparts of part 206.

The Heading for Part 206

As noted, the new section 422 of the Act requires the Commission to conduct investigations of and reviews of relief actions for trade diversion. The Commission is therefore amending the heading of part 206 to include a reference to trade diversion.

The Table of Contents

Among other changes, the Commission is amending the heading of section 206.3 in subpart A of part 206. In subpart E, the Commission also is revising the heading of section 206.43, adding a new section 206.44, redesignating the existing sections 206.44 and 206.45 as 206.45 and 206.46, and adding a new section 206.47. Finally, the Commission is adding a new subpart G. The Commission is therefore amending the table of contents for part 206 to reflect those changes.

The Authority Citation

The Commission is amending the authority citation to part 206 to include citations to 19 U.S.C. 2451 and 2451a (the new sections 421 and 422 of the Trade Act).

Section-by-Section Analysis of the Interim Amendments

Subpart A—General

Section 206.1

Section 206.1 describes the applicability of part 206. The first sentence of that section lists the statutes under which the Commission performs functions and duties in accordance with part 206. The Commission is amending that sentence to include a reference to the Commission's functions and duties under the new sections 421 and 422 of the Trade Act. The third sentence of section 206.1 describes the kinds of investigations or reviews that are covered by subpart B, C, D, or E of part 206. The Commission is amending that sentence to state that subpart E of part 206 provides rules governing petitions and investigations under section 421 of the Trade Act (as well as petitions and investigations under section 406 of that Act). Finally, the Commission is adding a sentence to the end of section 206.1 stating that the new subpart G of part 206 provides rules applying to the Commission's functions and duties under section 422 of the Trade Act.

Section 206.2

The first sentence of section 206.2 states that the Commission will institute an investigation under part 206 in response to a petition, request, resolution, or motion as described in the applicable statute. The Commission is amending that sentence by adding the new sections 421 and 422 of the Trade Act to the list of statutes under which the Commission may institute an investigation.

The second sentence in section 206.2 states that the first page of each petition or request must identify the statute and the subpart of part 206 under which the petition or request is being filed. The Commission is amending that sentence to add sections 421(b) and (o) of the Trade Act to the list of statutes and the new subpart G to the list of subparts.

Section 206.3

Paragraph (a) of section 206.3 requires the Commission to promptly institute an investigation and to publish notice thereof in the **Federal Register** upon receipt of a properly filed petition or request under part 206. That obligation would apply to a petition or request

under the new section 421(b) or (o) or the new section 422(b) of the Trade Act. The Commission also is required, however, in appropriate circumstances to institute an investigation and to publish a notice in the **Federal Register** in response to a resolution by the Senate Committee on Finance or the House Committee on Ways and Means or on the Commission's own motion. The Commission is amending paragraph (a) of section 206.3 by adding a sentence to the end of that paragraph to provide for those contingencies.

Paragraph (b) of section 206.3 specifies the required content of each **Federal Register** notice published pursuant to paragraph (a), that is, following receipt of a properly filed request or petition. The Commission is amending paragraph (b) by adding a sentence to the end of that paragraph stating that the notice will provide the same kind of information when the Commission institutes an investigation in response to a resolution or on the Commission's own motion.

Paragraph (c) of section 206.3 indicates that the Commission will make a nonconfidential copy of each petition or request available for public inspection. The Commission is amending paragraph (c) to state that the Commission will make each petition, request, resolution, or Commission motion available for public inspection, minus any confidential business information. Because of that change, the Commission also is amending the heading of section 206.3 to eliminate the reference to the availability of petitions for public inspection. Since the Commission will make each petition, request, resolution, or Commission motion available for such inspection, the revised portion of the heading will simply consist of the words "availability for public inspection."

Section 206.4

Section 206.4 currently requires the Commission to promptly transmit copies of a petition or request and the resulting notice of investigation to the Office of the United States Trade Representative, the Secretary of Commerce, the Secretary of Labor, and other Federal agencies directly concerned. Those provisions do not match the statutory notification requirements or actual Commission practice for some types of investigations that are currently subject to provisions of part 206 (e.g., investigations under section 204(c) of the Trade Act or section 302(b) of the North American Free Trade Agreement Implementation Act). In addition, the existing text of section 206.4 is not consistent with the

notification requirements of the new section 421(b)(4) of the Trade Act, under which the Commission must provide the President, the United States Trade Representative (USTR), the House Committee on Ways and Means, and the Senate Committee on Finance with nonconfidential copies of each petition, request, or resolution filed under section 421(b). For those reasons, the Commission is revising section 206.4 by deleting the existing text and replacing it with the statement that for each investigation subject to provisions of part 206, the Commission will transmit copies of the petition, request, resolution, or motion as required by the relevant statute, along with a copy of the notice of investigation.

Section 206.5

Paragraph (b) of section 206.5 provides for public hearings on injury and remedy in investigations conducted under subpart C, D, or E of part 206. The Commission is amending paragraph (b) on an interim basis to have it cover hearings in investigations under subpart C, D, E, or G. The specific changes that the Commission is making are described below.

First, the Commission is amending the heading of paragraph (b) to include investigations conducted under the new subpart G. Since the Commission is not likely to conduct a particular investigation under each of subparts C, D, E, and G, the revised heading refers to investigations under subpart C, D, E, or G.

Next, the Commission is amending the text of paragraph (b). The text currently states that the Commission will conduct a hearing on the subject of injury and remedy in each investigation instituted under subparts C, D, and E. Subpart E currently covers investigations under section 406(a) of the Trade Act. The Commission is amending paragraph (b) of section 206.5 to state that it will conduct a hearing on injury and remedy in each investigation instituted under subpart C or D or section 406(a) of the Trade Act and subpart E.

Subpart E, as amended in this notice, will cover investigations under section 421(b) or (o) of the Act in addition to investigations under section 406(a). Section 421 is comparable to section 406 in many respects. Moreover, material injury or the threat thereof to a domestic industry is an element of section 421(b). (See section 421(d) regarding the existence and cause of "market disruption" for purposes of section 421.) Material injury to a domestic industry or a threat thereof also would be relevant in an

investigation under section 421(o) to determine whether the Presidential action taken under section 421(k) continues to be necessary to prevent or remedy market disruption.

Section 421 of the Act is a new statute however. For that reason, the Commission prefers not to adopt a rule, at this time, that would restrict the subject matter of public hearings in investigations under section 421(b) or (o) to "injury and remedy." The Commission is therefore adding a sentence to paragraph (b) of section 206.5 stating that the Commission will conduct a hearing in each investigation instituted under section 421(b) or (o) of the Trade Act and subpart E, and that the **Federal Register** notice announcing the investigation will list the date, time, and location of the hearing, the subjects to be addressed, and the procedures to be followed, e.g., the procedure to be followed by each person who wishes to appear at the hearing.

The new subpart G of part 206 will cover, among other things, investigations under section 422(b) of the Trade Act. The principal subjects of those investigations are (1) whether an action described in section 422(c) of the Act has caused or threatens to cause a significant diversion of trade into the domestic market of the United States and (2) what relief, if any, the Commission should recommend to the President. Unlike market disruption under section 421 of the Act, trade diversion under section 422 does not include the element of material injury or threat thereof to a domestic industry (compare section 422(d)(1) of the Act to sections 421(c)(1) and (2) and (i)(1)(A)).

The Commission is therefore amending paragraph (b) of section 206.5 to say that for each investigation under section 421(b) or (o) or section 422(b) of the Trade Act, the **Federal Register** notice announcing the investigation will specify the date, time, and location of the public hearing, the subjects to be addressed, and the procedures to be followed.

Section 206.6

Paragraph (a) of section 206.6 provides a general description of the required content of Commission reports to the President on investigations conducted under part 206.

Paragraph (a)(2) discusses the Commission's obligation to provide recommendations for action in the report after reaching an affirmative determination in the investigation.

The Commission is amending paragraph (a)(2) to reflect the Commission's obligation to provide recommendations for action in the

Commission report after reaching an affirmative determination under section 421(b)(1) or (i)(1) or section 422(b) of the Act—or a determination that the President and the USTR may regard as affirmative under section 421(e) or (i)(1) or section 422(e)(1).

Paragraph (b) of section 206.6 describes additional findings and information that the Commission will include in reports to the President concerning certain kinds of investigations conducted under Part 206. Paragraph (b)(1) applies to determinations under section 202(b) of the Trade Act. Paragraph (b)(2) applies to determinations under section 302(b) of the NAFTA Implementation Act. The Commission is adding a new paragraph (b)(3) concerning the kinds of additional findings and information that will be included in reports concerning determinations under section 421(b) or 422(b) of the Trade Act. The content of that new paragraph is based on the Commission's obligation to consider certain factors, pursuant to section 421(g)(2)(D) or 422(e)(3)(iv), in reaching a determination under section 421(b) or 422(b) of the Act.

Section 206.7

Paragraph (a) of section 206.7 currently provides that, except for limited disclosure under an administrative protective order in accordance with section 206.17, the Commission will not release confidential business information unless the submitter either consents or had notice, when the information was submitted, that the Commission might release it. Paragraph (a) also states that when appropriate, the Commission will provide confidential business information in reports to the President and the USTR, but will release expurgated copies of the reports to the public. Paragraph (a) currently applies only to investigations conducted under subpart B, C, D, or F of part 206.

Paragraph (a) of section 206.7 implements sections 202(a)(8) and (i) of the Trade Act concerning the treatment of confidential business information. Section 202(a)(8) states that the procedures concerning the release of such information that are set forth in section 332 of the Tariff Act (19 U.S.C. 1332) shall apply with respect to information received by the Commission in the course of certain other kinds of investigations. Section 202(i) of the Trade Act states that the Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who

are parties to an investigation under section 202 of the Act. Sections 202(a)(8) and (i) of the Trade Act apply to investigations under section 421 or 422 of the Act. See sections 421(b)(3) and 422(b)(3).

Investigations under section 421(b) or (o) of the Act will be conducted in accordance with amended subpart E of part 206, while investigations under section 422(b) will be governed by the new subpart G. The Commission is therefore amending the first sentence in paragraph (a) of section 206.7 to include references to those investigations and subparts.

(See also the discussion below concerning the interim amendments to section 206.47, regarding the limited disclosure of confidential business information under an administrative protective order in investigations under section 421(b) or (o) of the Trade Act. Also see the discussion of the new section 206.66 regarding such disclosures in investigations under section 422(b) of the Act and the omission of such disclosures in reviews under section 422(j).)

Subpart E—Investigations for Relief From Market Disruption

Section 206.41

Section 206.41 describes the applicability of subpart E of part 206. The first sentence of that section makes subpart F applicable solely to investigations under section 406 of the Trade Act. The Commission is amending that sentence to state that subpart E applies to investigations under section 421(b) or (o) of the Trade Act as well as investigations under section 406(a) of the Act.

Section 206.42

Section 206.42 tells who may file a petition for an investigation governed by subpart E of part 206.

Because section 206.42 only covers petitions under section 406(a) of the Trade Act, the Commission is amending that section by designating the original text paragraph (a) of section 206.42, but revising it to explicitly apply to petitions under section 406(a) of the Act. Also, because of the broadened applicability of subpart E (as described above in the analysis of section 206.41), the Commission is adding a new paragraph (b) to section 206.42 that tells who may file a petition under section 421(b) or (o) of the Trade Act.

Section 206.43

Section 206.43 describes the required content of a petition for an investigation governed by subpart E of part 206. The

Commission is revising the heading of section 206.43 to indicate that this section pertains solely to petitions under section 406(a) of the Trade Act. In the first sentence of the introductory text in section 206.43, the Commission is changing the words “a petition under this subpart E” to “a petition under section 406(a) of the Trade Act.” The required content of a petition under the new section 421(b) or (o) of the Trade Act will be set forth in a new section 206.44, as described below.

New Section 206.44

The Commission is adding a new section 206.44 to subpart E of part 206, describing the required content of a petition under section 421(b) or (o) of the Trade Act. As the legislative history of section 421 (*See* H.R. Rept. No. 632, 106th Cong., 2d Sess. 16–17 (May 22, 2000)) points out, the provisions of that section are modeled after section 406 of the Act, but with certain modifications to conform to the language of the U.S.-China Bilateral Trade Agreement. The Commission accordingly has modeled the new section 206.44 in part after section 206.43 governing the required content of a petition under section 406(a) of the Act. But the new section 206.44 imposes requirements based on section 421 of the Act.

Paragraph (a) of the new section 206.44 imposes the basic requirement that the petition must provide specific information to support the claim that products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. Section 421 imposes stringent deadlines for the Commission to make the required determination(s). Hence, the petition may become a primary source of data (in an investigation based on a petition). For that reason, paragraph (a) of the new section 210.44 in subpart E of part 206 requires the petition to provide the information specified in paragraphs (a) through (i) of that section, to the extent that such information is reasonably available to the petitioner with due diligence.

Paragraph (b) of the new section 206.44 tells what product description data the petition must contain, and is modeled after paragraph (a) of section 206.43 governing the product description in a petition under section 406(a) of the Trade Act.

A petition under section 421(b) of the Act must be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers,

which is representative of an industry. See sections 421(b)(1) and 202(a) of the Act. Hence, paragraph (c) of the new section 206.44 specifies what data the petition must furnish to establish that the petitioner satisfies the representativeness requirement. Paragraph (c) corresponds to paragraph (b) of section 206.43, concerning the representativeness of a petition under section 406(a) of the Act.

Paragraph (d) of the new section 206.44 specifies the import data to be furnished in a petition under section 421(b) of the Trade Act. Paragraph (d) is similar to paragraph (c) of section 206.43, which describes the import data to be furnished in a petition under section 406(a) of the Act. The difference is that owing to the language of section 421(c)(1) of the Act, paragraph (d) of the new section 206.44 requires the submission of information about whether imports are increasing absolutely or relatively (instead of absolutely or relative to domestic production).

Paragraph (e) of the new section 206.44 specifies the domestic production data to be submitted in a petition under section 421(b) of the Trade Act. Paragraph (e) matches paragraph (d) of section 206.43, which describes the domestic production data to be furnished in a petition under section 406(a) of the Act.

Paragraph (f) of the new section 206.44 specifies the injury data to be submitted in a petition under section 421(b) of the Trade Act. Paragraph (f) is similar to paragraph (e) of section 206.43, which describes the data showing injury that must be included in a petition under section 406(a) of the Act.

Paragraph (g) of the new section 206.44 specifies the injury causation data to be submitted in a petition under section 421(b) of the Trade Act. Paragraph (g) differs from paragraph (f) of section 206.43, regarding the cause of injury as described in a petition under section 406(a) of the Act. Owing to differences between factors the Commission must consider under section 421(d)(1) of the Act and those it must consider under section 406(e)(1)(C) of the Act, paragraph (g) of the new section 206.44 does not indicate that the petition should include evidence of disruptive pricing practices or other efforts to unfairly manage trade patterns (in addition to evidence of the effect of the subject imports on prices in the United States). Instead, paragraph (g) requires the submission of data about the effect that the product imported from the People's Republic of China has on prices in the United States for like or

directly competitive articles—which is consistent with section 421(d)(3) of the Act.

A petition under section 421(b) of the Trade Act may allege that critical circumstances exist and may request that provisional relief be provided with respect to the product identified in the petition. See section 421(i) of the Act. For that reason, paragraph (h) of the new section 206.44 states that a petition alleging critical circumstances must provide information demonstrating that delay in taking action under section 421 of the Act would cause damage to the relevant domestic industry that would be difficult to repair.

Paragraph (i) of the new section 206.44 states that the petition must include a statement describing the import relief sought and the purpose thereof.

Paragraph (j) of the new section 206.44 describes the required content of a petition under section 421(o) of the Trade Act. A petition under section 421(o) must be filed “on behalf of the industry concerned.” Therefore, paragraph (j) of the new section 206.44 requires the petition to provide evidence of representativeness, as described in paragraph (b) of that section. The new paragraph (j) also states that the petition must contain specific information supporting the petitioner's claim that action under section 421 of the Trade Act continues to be necessary to prevent or remedy market disruption. Paragraph (j) also tells the petitioner that the information provided should take into account factors such as those specified in paragraphs (c)–(g) of section 206.44. Owing to the short time provided for the Commission to make its determination under section 421(o), the petition may become a key source of information. For that reason, paragraph (j) of section 206.44 states that, to comply with paragraph (j), the petition should contain all relevant information reasonably available to the petitioner with due diligence.

Existing Section 206.44—Redesignated as Section 206.45

Existing section 206.44 addresses the time by which the Commission must furnish its report to the President in an investigation under section 406(a) of the Trade Act. Because the Commission is adding a new section 206.44 as discussed above, the Commission is redesignating existing section 206.44 as section 206.45. The Commission also is redesignating the existing provisions of section 206.44 as paragraph (a) of section 206.45 and explicitly limiting them to the issuance of a report to the

President in an investigation under section 406(a) of the Trade Act. The Commission is adding a new paragraph (b) concerning the deadlines for submitting its determination and report to the President and the USTR in an investigation under section 421(b) of the Trade Act. A new paragraph (c) states the Commission's deadlines for issuing a determination and report on critical circumstances, pursuant to section 421(i) of the Act, when the petition in an investigation under section 421(b) alleges that such circumstances exist and requests provisional relief. Finally, the Commission is adding a new paragraph (d) concerning the time by which the Commission must issue its determination and report in an investigation under section 421(o) of the Act.

Existing Section 206.45—Redesignated as Section 206.46

Existing section 206.45 states that the Commission will issue a nonconfidential version of the report issued in an investigation under subpart E and will publish a summary of it in the **Federal Register**. Because the Commission is adding a new section 206.44 to subpart E as discussed above, the existing section 206.45 will become section 206.46. The Commission is making no changes in the substance of this rule.

Section 206.47

Section 421(b)(3) of the Trade Act states that sections 202(a)(8) and (i) of the Act, relating to the treatment of confidential business information, shall apply to investigations conducted under section 421. The provisions concerning confidential business information in investigations under section 202(b) of the Act are set forth in sections 206.7 and 206.17 of part 206.

Section 206.7 applies to investigations under section 421(b) or (o) of the Trade Act as a result of the Commission's interim amendments to sections 206.7 and 206.41.

The Commission is adding a new section 206.47 to provide for the limited disclosure of confidential business information under an administrative protective order, as described in section 206.17, in investigations under section 421(b) or (o) of the Act.

Subpart G—Investigations for Action in Response to Trade Diversion; Reviews of Action Taken

As noted in the overview, the Commission is adding a new subpart G concerning investigations under section 422(b) and reviews under section 422(j) of the Trade Act.

Section 206.61

Section 206.61 describes the applicability of subpart G and cross-references relevant rules of general application.

Section 206.62

Section 206.62 states who may file a petition for an investigation under section 422(b) of the Trade Act. This section is based on section 422(b)(1) of the Act, which states that a petition may be filed by an entity described in section 202(a) of the Act.

Section 206.63

Section 206.63 describes the required content of a petition for an investigation under section 422(b) of the Trade Act. It consists of an introductory paragraph and paragraphs (a)–(f).

The introductory paragraph of the new section 206.63 imposes the basic requirement that the petition must provide specific information to support the claim that an action described in section 422(c) has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States. Because of the stringent deadline for the Commission to make its determination under section 422(b)(1) of the Act, the petition may become a primary source of information. The introductory paragraph of section 206.63 accordingly requires the petition to furnish the information specified in the introductory paragraph and paragraphs (a)–(f) of that section, to the extent that such information is reasonably available to the petitioner with due diligence.

Among other things, paragraph (a) directs the petitioner to submit data concerning the imported product at issue. A petition under section 422(b) must be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. See sections 422(b)(1) and 202(a) of the Act. Hence, paragraph (a) of the new section 206.63 also requires the petition to provide the name and description of the domestic product concerned, while paragraph (b) requires the submission of evidence of the petitioner's representativeness.

Paragraph (c) indicates that the petition must contain a description of the action, as defined in section 422(c) of the Trade Act, that allegedly has caused or threatens to cause a significant diversion of trade into the domestic market of the United States.

Paragraph (d) requires the petition to provide information about the factors enumerated in section 422(d)(1) of the

Act, which the Commission must consider in determining whether significant diversion or the threat thereof exists for purposes of section 422.

Section 422(d)(2) of the Trade Act directs the Commission to examine the changes in imports into the United States from the People's Republic of China since the time that the WTO member commenced the investigation that led to a request for consultations described in section 422(a) of the Act. In some cases, the United States Customs Service will be required by law to monitor the subject imports and to make data from such monitoring available to the Commission upon request. See section 422(a) of the Act. However, the Commission has drafted paragraph (e) of section 206.63 to require the petition to provide any information available to the petitioner that will help the Commission fulfill its statutory obligation to examine the changes in imports.

Finally, paragraph (f) of section 206.63 states that the petition must contain a statement describing the import relief desired under section 422(h) and the purpose thereof.

Section 206.64

Section 206.64 addresses the institution of an investigation under section 422(b) or a review under section 422(j) of the Trade Act. Section 206.64 also addresses the Commission's publication of a **Federal Register** notice concerning the investigation or review and the fact that the Commission will make the petition, request, resolution, or motion that triggered the investigation or the notification document that triggered the review available for public inspection, except for any confidential information contained therein.

Section 206.65

Section 206.65 governs public hearings in investigations under section 422(b) and reviews under section 422(j) of the Trade Act. Section 422(b)(2) of the Act makes public hearings mandatory for investigations under section 422(b). Paragraph (a) section 206.65 states that hearings for those investigations are provided for in paragraph (b) of section 206.5 (discussed above).

Section 206.66

Section 422(b)(3) of the Trade Act states that the provisions of sections 202(a)(8) and (i) of the Act, relating to confidential business information, shall apply to investigations conducted under section 422. The provisions governing the treatment of such information in

investigations under section 202(b) of the Act are set forth in sections 206.7 and 206.17 of part 206.

Section 206.7 applies to investigations under section 422(b) of the Act as a result of the Commission's interim amendments to sections 206.7 and 206.41.

The Commission is adding a new section 206.66 to provide for the limited disclosure of confidential business information under an administrative protective order, as described in section 206.17, in investigations under section 422(b).

As noted, section 422(b)(3) of the Act states that the provisions of sections 202(a)(8) and (i) of the Act, relating to the treatment of confidential business information, "shall apply to *investigations* conducted under this section [422] [*italics added*]." Section 422(j) characterizes a review under section 422(j) as a "review of circumstances." The Commission notes further that while it has 60 days to make its determination in such a review (as opposed to 45 days for making a determination in an investigation under section 422(b)), section 422(j) of the Act does not mandate the kinds of procedures that apply to an investigation under section 422(b), namely, the publication of a **Federal Register** notice of institution and the conduct of a public hearing. For those reasons, the Commission did not draft the new section 206.66 to provide in reviews for the limited disclosure of confidential business information under an administrative protective order, as described in section 206.17.

Section 206.67

Paragraph (a) of section 206.67 lists the deadlines for issuance of the Commission's determination and report to the President and the USTR in an investigation under section 422(b) of the Trade Act. Paragraph (b) lists the deadlines for issuing the determination and report in a review under section 422(j) of the Act.

Section 206.68

Section 206.68 governs the publishing of the Commission reports and notice concerning such report in an investigation under section 422(b) or a review under section 422(j) of the Trade Act. This rule states that upon making a report to the President of the results of such investigation or a review, the Commission will make the report public (with the exception of information which the Commission determines to be confidential) and will publish notice of the report in the **Federal Register**.

Regulatory Analysis

The Regulatory Flexibility Act

The Commission notes that the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) is inapplicable to this rulemaking because it is not one for which a notice of proposed rulemaking is required under section 553(b) of the APA. (See the discussion above concerning the procedure for adopting the interim amendments.)

Even if the Regulatory Flexibility Act applied, the Commission's interim amendments to part 206 are not likely to affect small entities in the manner that the Act is intended to prevent. The interim amendments are agency rules of procedure and practice. The procedures for the new types of proceedings are similar to those for existing types. Moreover, the Commission has no reason to believe, at this point, that a majority of the petitioners will be small entities. For those reasons, the Commission certifies, pursuant to 5 U.S.C. 605(b), that the interim rule amendments in this notice will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Commission has determined that the interim amendments to part 206 do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and thus do not constitute a significant regulatory action for purposes of the Executive Order. As noted, they merely respond to exigencies created by the new legislation. The interim amendments to part 206 will not result in (1) an annual effect on the economy of \$100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Executive Order 13132

The interim amendments to part 206 of the Commission's rules do not contain federalism implications warranting the preparation of a Federalism Assessment pursuant to Executive Order 13132 (64 FR 43255, Aug. 4, 1999).

The Unfunded Mandates Reform Act of 1995

The interim amendments to part 206 of the Commission's rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.).

The Small Business Regulatory Enforcement Fairness Act of 1996

The interim amendments to part 206 of the Commission's rules are not major rules as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.). The interim amendments will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Contract With America Advancement Act of 1996

The interim amendments to part 206 of the Commission's rules are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (Pub. L. 104-121) because they concern rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The Paperwork Reduction Act

The interim amendments to part 206 are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), since they do not contain any new information collection requirements.

List of Subjects in 19 CFR Part 206

Administrative practice and procedure, Business and industry, Imports, Investigations, Trade agreements.

For the reasons stated in the preamble, the Commission amends 19 CFR part 206 as follows:

1. Revise the heading for part 206 to read as follows:

PART 206—INVESTIGATIONS RELATING TO GLOBAL AND BILATERAL SAFEGUARD ACTIONS, MARKET DISRUPTION, TRADE DIVERSION, AND REVIEW OF RELIEF ACTIONS

2.–3. Revise the authority citation for part 206 to read as follows:

Authority: 19 U.S.C. 1335, 2251–2254, 2451–2451a, 3351–3382; secs. 103, 301–302, Pub. L. 103–465, 108 Stat. 4809.

4. Revise § 206.1 to read as follows:

§ 206.1 Applicability of part.

This part 206 applies specifically to functions and duties of the Commission under sections 201–202, 204, 406, and 421–422 of the Trade Act of 1974, as amended (19 U.S.C. 2251, 2252, 2254, 2436, 2451–2451a) (hereinafter Trade Act), and sections 301–318 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3351 et seq.) (hereinafter NAFTA Implementation Act). Subpart A of this part sets forth rules generally applicable to investigations conducted under these provisions; for other rules of general application, see part 201 of this chapter. Subpart B of this part sets forth rules specifically applicable to petitions and investigations under section 202 of the Trade Act; subpart C sets forth rules specifically applicable to requests and investigations under section 312(c) of the NAFTA Implementation Act; subpart D sets forth rules specifically applicable to petitions and investigations under section 302 of the Trade Act; subpart E sets forth rules specifically applicable to petitions and investigations under section 406 or 421 of the Trade Act. Subpart F of this part sets forth rules applicable to functions and duties under section 204 of the Trade Act. Subpart G sets forth rules applicable to functions and duties under section 422 of the Trade Act.

5. Revise § 206.2 to read as follows:

§ 206.2 Identification of type of petition or request.

An investigation under this part 206 may be commenced on the basis of a petition, request, resolution, or motion as provided in section 202(a)(1), 204(c)(1), 406(a)(1), 421(b) or (o), or 422(b) of the Trade Act of 1974 or section 302(a)(1) or 312(c)(1) of the North American Free Trade Agreement Implementation Act. Each petition or request, as the case may be, filed by an entity representative of a domestic industry under this part 206 shall state clearly on the first page thereof “This is a [petition or request] under section [202, 204(c), 406, 421(b) or (o), or 422(b)

of the Trade Act of 1974, or section 302 or 312(c) of the North American Free Trade Agreement Implementation Act] and Subpart [B, C, D, E, F, or G] of part 206 of the rules of practice and procedure of the United States International Trade Commission.”

6. In § 206.3, revise the section heading, add a second sentence to paragraph (a), amend paragraph (b) to add a second sentence, and revise paragraph (c) to read as follows:

§ 206.3 Institution of investigations; publication of notice; and availability for public inspection.

(a) * * * The Commission also will institute an investigation and publish a notice following receipt of a resolution or on the Commission’s own motion under part 206.

(b) * * * The Commission will provide the same sort of information in its notice when the investigation was instituted following receipt of a resolution or on the Commission’s own motion.

(c) *Availability for public inspection.* The Commission will promptly make each petition, request, resolution, or Commission motion available for public inspection (with the exception of confidential business information).

7. Revise § 206.4 to read as follows:

§ 206.4 Notification of other agencies.

For each investigation subject to provisions of part 206, the Commission will transmit copies of the petition, request, resolution, or Commission motion as required by the relevant statute, along with a copy of the notice of investigation.

8. Amend § 206.5 to revise paragraph (b) to read as follows:

§ 206.5 Public hearing.

* * * * *

(b) *Investigations under subpart C, D, E, or G of this part.* A public hearing on the subject of injury and remedy will be held in connection with each investigation instituted under subpart C or D of this part or section 406(a) of the Trade Act and subpart E of this part, after reasonable notice thereof has been published in the **Federal Register**. The Commission also will conduct a public hearing in each investigation instituted under section 421(b) or (o) of the Trade Act and subpart E of this part or section 422(b) of the Act and subpart G. The **Federal Register** notice announcing the institution of such an investigation will list the date, time, and location of the hearing, the subjects to be addressed, and the procedures to be followed.

* * * * *

9. Amend § 206.6 to revise paragraph (a)(2) and to add paragraph (b)(3) to read as follows:

§ 206.6 Report to the President.

(a) * * *

(2) If the determination is affirmative—or in the case of an investigation under section 421(b) or 422(b) of the Trade Act, if the President or the United States Trade Representative may consider the Commission’s determination to be affirmative under section 421(e) or (i)(1) or section 422(e)(1) of the Act—to the extent appropriate, the recommendations for action and an explanation of the basis for each recommendation;

* * * * *

(b) * * *

(3) In the case of a determination made under section 421(b) or 422(b) of the Trade Act, the Commission will also include in its report a description of—

(i) The short- and long-term effects that implementation of the action recommended is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

(ii) The short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

10. Amend § 206.7 to revise the first sentence of paragraph (a) to read as follows:

§ 206.7 Confidential business information; furnishing of nonconfidential summaries thereof.

(a) *Nonrelease of information.* Except as provided for in § 206.17, in the case of an investigation under subpart B, C, D, F, or G of this part or an investigation under section 422 of the Trade Act and subpart E of this part, the Commission will not release information which the Commission considers to be confidential business information within the meaning of § 201.6 of this chapter unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information.

* * *

11. Amend § 206.41 to revise the first sentence to read as follows:

§ 206.41 Applicability of subpart.

This subpart E applies specifically to investigations under section 406(a) or 421(b) or (o) of the Trade Act. * * *

12. Revise § 206.42 to read as follows:

§ 206.42 Who may file a petition.

(a) A petition under section 406(a) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a domestic industry producing an article with respect to which there are imports of a like or directly competitive article which is the product of a Communist country, which imports, allegedly, are increasing rapidly, either absolutely or relative to domestic production, so as to be a significant cause of material injury, or the threat thereof, to such domestic industry.

(b) A petition under section 421(b) or (o) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

13. Amend § 206.43 to revise the heading and the first sentence of the introductory text to read as follows:

§ 206.43 Contents of a petition under section 406(a) of the Trade Act.

A petition for relief under section 406(a) of the Trade Act shall include specific information in support of the claim that imports of an article that are the product of a Communist country which are like or directly competitive with an article produced by a domestic industry, are increasing rapidly, either absolutely or relative to domestic production, so as to be a significant cause of material injury, or the threat thereof, to such domestic industry.

* * *

* * * * *

14. Sections 206.44 and 206.45 are redesignated as §§ 206.45 and 206.46, respectively, and a new § 206.44 is added to read as follows:

§ 206.44 Contents of a petition under section 421(b) or (o) of the Trade Act.

(a) *Petitions under section 421(b).* A petition for relief under section 421(b) of the Trade Act shall provide specific information in support of the claim that products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. In addition, such petition shall include the information described in paragraphs (b) through (i) of this section. The petition

shall provide the information required by this paragraph and paragraphs (b) through (i) of this section to the extent that such information is reasonably available to the petitioner with due diligence.

(b) *Product description.* Each petition shall include the name and description of the imported product concerned, specifying the United States tariff provision under which such product is classified and the current tariff treatment thereof, and the name and description of the like or directly competitive domestic product concerned.

(c) *Representativeness.* Each petition shall include:

(1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic product is produced;

(2) The percentage of domestic production of the like or directly competitive domestic product that such represented firms and/or workers account for and the basis for asserting that petitioner is representative of an industry; and

(3) The names and locations of all other producers of the domestic product known to the petitioner.

(d) *Import data.* Each petition shall include import data for at least each of the most recent 5 full years which form the basis of the claim that imports from the People's Republic of China of a product like or directly competitive with the product produced by the domestic industry concerned are increasing rapidly, either absolutely or relatively.

(e) *Domestic production data.* Each petition shall include data on total U.S. production of the domestic product for each full year for which data are provided pursuant to paragraph (d) of this section.

(f) *Data showing injury and/or threat of injury.* Each petition shall include the following quantitative data indicating the nature and extent of injury to the domestic industry concerned:

(1) With respect to material injury, information, including data on production, capacity, capacity utilization, shipments, net sales, profits, employment, productivity, inventories, and expenditures on capital and research and development, indicating:

(i) An idling of production facilities in the industry, including data indicating plant closings or the underutilization of production capacity;

(ii) The inability of a number of firms to carry out domestic production

operations at a reasonable level of profit; and

(iii) Unemployment or underemployment within the industry; and/or

(2) With respect to the threat of material injury, data relating to:

(i) Declines in sales or market share, increases in inventory (whether maintained by domestic producers, importers, wholesalers, retailers, or producers or exporters in the People's Republic of China), and/or a downward trend in production, profits, wages, or employment (or increasing underemployment);

(ii) The extent to which firms in the industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development;

(iii) The extent to which the U.S. market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(iv) Data regarding productive capacity in the People's Republic of China, any unused productive capacity, and any potential for product shifting in the People's Republic of China.

(g) *Cause of injury.* Each petition shall enumerate and describe the causes believed to be resulting in the material injury, or threat thereof, described in paragraph (f) of this section. The petition shall provide information relating to the effect of imports of the subject merchandise on prices in the United States for like or directly competitive articles. The petition shall also include a statement regarding the extent to which increased imports, either actual or relative, of the imported product are believed to be such a cause, supported by pertinent data.

(h) *Critical circumstances.* If the petition alleges that critical circumstances exist within the meaning of section 421(i)(1) of the Trade Act, the petition shall provide detailed information supporting that claim as well as detailed information demonstrating that delay in taking action under section 421 of the Act would cause damage to the relevant domestic industry that would be difficult to repair.

(i) *Relief sought and purpose thereof.* The petition shall include a statement describing the import relief sought under section 421(i)(4) and/or section 421(a) of the Trade Act and the purpose thereof.

(j) *Petitions under section 421(o)*. A petition under section 421(o) of the Trade Act shall include evidence of representativeness, as described in paragraph (b) of this section, as well as specific information in support of the claim that action under section 421 of the Act continues to be necessary to prevent or remedy market disruption. The information provided in support of that claim should take into account factors such as those specified in paragraphs (c) through (g) of this section. To comply with this paragraph, the petition should contain all relevant information that is reasonably available to the petitioner with due diligence.

15. Revise newly designated § 206.45 read as follows:

§ 206.45 Time for reporting.

(a) In an investigation under section 406(a) of the Trade Act, the Commission will make its report to the President at the earliest practical time, but not later than 3 months after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

(b) In an investigation under section 421(b) of the Trade Act, the Commission will transmit to the President and the United States Trade Representative its determination at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting provisional relief under section 421(i) of the Act) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted. The Commission will transmit its report to the President and the Trade Representative no later than 20 days after the transmittal of the determination.

(c) In an investigation under section 421(b) of the Trade Act in which the petition requests provisional relief under section 421(i) of the Act, the Commission will transmit to the President and the Trade Representative its determination and report with respect to section 421(i) of the Act no later than 45 days after the petition is filed.

(d) In an investigation under section 421(o) of the Trade Act, the Commission shall transmit to the President a report on its investigation and determination not later than 60 days before the action under section 421(m) of the Trade Act is to terminate.

16.–17. Add § 206.47 to read as follows:

§ 206.47 Limited disclosure of certain confidential business information under administrative protective order.

In an investigation under section 421(b) or (o) of the Trade Act, the Secretary shall make confidential business information available to authorized applicants, subject to the provisions of § 206.17.

18. Add subpart G, consisting of §§ 206.61 through 206.68, to read as follows:

Subpart G—Investigations For Action in Response to Trade Diversion; Reviews of Action Taken

Sec.

206.61 Applicability of subpart.

206.62 Who may file a petition.

206.63 Contents of a petition.

206.64 Institution of investigation or review; publication of notice; and availability for public inspection.

206.65 Public hearing.

206.66 Limited disclosure of certain confidential business information under administrative protective order.

206.67 Time for determination and report.

206.68 Public report.

Subpart G—Investigations For Action in Response to Trade Diversion; Reviews of Action Taken

§ 206.61 Applicability of subpart.

The provisions of this subpart G apply to investigations under section 422(b) and/or reviews under section 422(j) of the Trade Act. For other applicable rules, see subpart A of this part and part 201 of this chapter.

§ 206.62 Who may file a petition.

A petition for an investigation under section 422(b) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

§ 206.63 Contents of petition.

A petition under section 422(b) of the Trade Act shall include specific information in support of the claim that an action described in section 422(c) of the Trade Act has caused, or threatens to cause, a significant diversion of trade into the domestic market of the United States. To comply with that requirement and the requirements in paragraphs (a) through (f) of this section, the petition shall include all relevant information that is reasonably available to the petitioner with due diligence. The petition shall include the following information:

(a) *Product description*. The name and description of the imported product concerned, specifying the United States tariff provision under which such article is classified and the current tariff

treatment thereof, and the name and description of the domestic product concerned;

(b) *Representativeness*. (1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic product is produced;

(2) The percentage of domestic production of the domestic product that such represented firms and/or workers account for and the basis for asserting that petitioner is representative of an industry; and

(3) The names and locations of all other producers of the domestic product known to the petitioner;

(c) *Description of the action*. A description of the action or actions, as defined in section 422(c) of the Trade Act, that allegedly has caused or threatens to cause a significant diversion of trade into the domestic market of the United States;

(d) *Trade diversion data*. (1) The actual or imminent increase in United States market share held by such imports from the People's Republic of China;

(2) The actual or imminent increase in volume of such imports into the United States;

(3) The nature and extent of the action taken or proposed by the WTO member concerned;

(4) The extent of exports from the People's Republic of China to that WTO member and to the United States;

(5) The actual or imminent changes in exports to that WTO member due to the action taken or proposed;

(6) The actual or imminent diversion of exports from the People's Republic of China to countries other than the United States;

(7) Cyclical or seasonal trends in import volumes into the United States of the products at issue; and

(8) Conditions of demand and supply in the United States market for the products at issue;

(e) *Import data*. Any import data available to the petitioner that will aid the Commission in examining, pursuant to section 422(d)(2) of the Trade Act, the changes in imports into the United States from the People's Republic of China since the time that the WTO member commenced the investigation that led to a request for consultations described in section 422(a) of the Act; and

(f) *Relief sought and purpose thereof*. A statement describing the import relief sought under section 422(h) of the Trade Act and the purpose thereof.

§ 206.64 Institution of investigation or review; publication of notice; and availability for public inspection.

(a) Paragraphs (a) and (b) in § 206.3 govern the institution of an investigation under section 422(b) of the Act and the publication of a **Federal Register** notice concerning the investigation. Following receipt of notification that the WTO member or members involved have notified the Committee on Safeguards of the WTO of a modification in the action taken by them against the People's Republic of China pursuant to consultation referred to in section 422(a) of the Act, the Commission will promptly conduct a review under section 422(j) of the Act regarding the continued need for action taken under section 422(h) of the Act. The Commission also will publish notice of the review in the **Federal Register**.

(b) The Commission will make available for public inspection the notification document that prompted a review under paragraph (a) of this section, excluding any confidential business information in the document. Paragraph (c) in § 206.3 governs the availability for public inspection of a petition, request, resolution, or motion that prompted the Commission to institute an investigation under section 422(b) of the Act.

§ 206.65 Public hearing.

Public hearings in investigations under section 422(b) of the Act are provided for in § 206.5(b).

§ 206.66 Limited disclosure of certain confidential business information under administrative protective order.

In an investigation under section 422(b) of the Trade Act, the Secretary shall make confidential business information available to authorized applicants, subject to the provisions of § 206.17.

§ 206.67 Time for determination and report.

(a) In an investigation under section 422(b) of the Trade Act, the Commission will transmit its determination under that section of the Act to the President and the Trade Representative at the earliest practical time, but not later than 45 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be. The Commission shall issue and transmit its report on the determination not later than 10 days after the determination is issued.

(b) In a review under section 422(j) of the Trade Act, the Commission will report its determination to the President

not later than 60 days after the notification described in that section of the Act.

§ 206.68 Public report.

Upon making a report to the President of the results of an investigation under section 422(b) or a review under section 422(j) of the Trade Act, the Commission will make such report public (with the exception of information which the Commission determines to be confidential) and cause a summary thereof to be published in the **Federal Register**.

Issued: February 15, 2002.

By Order of the Commission.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02-4186 Filed 2-21-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 100**

[CGD08-01-012]

RIN 2115-AE46

Marine Events & Regattas; Annual Marine Events in the Eighth Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing and modifying various annually recurring marine events throughout the Eighth Coast Guard District. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to control vessel traffic in portions of the waterways of the Eighth District in conjunction with these marine events.

DATES: This final rule is effective March 25, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD08-01-012] and are available for inspection or copying at room 1311, Hale Boggs Federal Building, New Orleans, Louisiana, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander David Nichols, Eighth Coast Guard District Legal Office, (504) 589-6188.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 17, 2001, we published a notice of proposed rulemaking (NPRM) entitled "Marine Events and Regattas; Annual Marine Events in the Eighth Coast Guard District" in the **Federal Register**. We received one e-mail and no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is establishing various annually recurring marine events and modifying some of the existing marine event regulations throughout the Eighth Coast Guard District. Establishing permanent marine event regulations and modifying some of the existing marine event regulations by notice and comment rulemaking gave the public an opportunity to comment on these proposed regulations. The Coast Guard has received no prior notice of any impact caused by the previous events. The new or modified marine event regulations are as follows:

Independence Day Fireworks, Mobile, AL

The regulated area for this event is from the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North. The Mobile Register will sponsor the one-day event that will occur on the 4th of July.

Blue Angels Air Show, Pensacola, FL

The regulated area for this event is a five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront. Naval Air Station Pensacola, Florida will sponsor the two-day event that will occur on the 2nd weekend in July.

Fort-to-Fort Swim, Pensacola, FL

The regulated area for this event is in the Gulf Intracoastal Waterway at Pensacola, Florida from the Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16. The one-day event will occur on the 1st weekend in August.

Keesler Air Force Base Air Show, Biloxi, MS

The regulated area for this event is bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees,

55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West. Keesler Air Force Base, Biloxi, Mississippi, will sponsor the two-day event that will occur on the 1st weekend in November.

Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

The regulated area for this event is Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou. The Krewe of Billy Bowlegs of Okaloosa County, Inc. will sponsor the two-day event that will occur on the 1st weekend in June.

East-West Powerboat Shootout, Corpus Christi, TX

The regulated area for this event is the waters of Corpus Christi Bay adjacent to the Corpus Christi downtown area bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West. EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association will sponsor the two-day event that will occur on the 1st or 2nd weekend in June.

Rubber Ducky Derby, Beaumont, TX

The regulated area for this event is on the Neches River from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5. C P Rehabilitation Center will sponsor the event which will occur on the 2nd, 3rd, or 4th Saturday in April.

Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

The regulated area for this event is on the waters of the Sabine-Neches Canal from Wilson Middle School to the northern terminus of Old Golf Course Road. The event is sponsored by the City of Port Arthur and Lamar State College and will occur on the Fourth of July.

Neches River Festival, Beaumont, TX

The date is amended to read "two days beginning on the 2nd, 3rd, or 4th weekend in April."

Annual Labor Day Fireworks

The regulated area is amended to read "Destin East Pass between and including buoys 5 to 11, Destin, FL".

Independence Day Fireworks, Destin, FL

The regulated area is amended to read "Destin East Pass between and including buoys 5 to 11, Destin, FL".

Discussion of Comments and Changes

We received one e-mail from Marine Safety Office Port Arthur notifying us that there was a minor error in the listing for the Rubber Ducky Derby. The NPRM stated that the event is to occur on the "2nd, 3rd, and 4th Saturday in April." The correct language should be "2nd, 3rd, or 4th Saturday in April." We changed the proposed regulation to reflect the correct language. No other comments were received.

Regulatory Evaluation

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

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

Although these marine events will restrict vessel traffic from transiting certain areas of Eighth Coast Guard District waters, the effect of this regulation will not be significant due to the limited duration that the regulated areas will be in effect and the advance notification that will be made to the maritime community through the **Federal Register**. These regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Collection of Information

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

Federalism

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking.

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environmental

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes and/or amends annual marine event regulations. A “Categorical Exclusion Determination” is available in the docket 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 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 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 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—REGATTAS AND MARINE PARADES

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

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

2. Amend Table 1 of § 100.801 by as follows:

a. The seven “Groups” identified in Table 1 are designated as units I through VII, respectively, as set out below;

b. In newly designated unit IV, revise entries 8. for Independence Day

Fireworks, Destin, FL, and 16. for Annual Labor Day Fireworks, Destin, FL, and add entries 18–22. for Independence Day Fireworks, Mobile, AL; Blue Angels Air Show, Pensacola, FL; Fort-to-Fort Swim, Pensacola, FL; Keesler Air Force Base Air Show, Biloxi, MS; and Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL, and as set out below;

c. In newly designated unit VI, revise entry 1. for Neches River Festival, Beaumont, TX as set out below;

d. At the end of newly designated unit VII, add entry 8. for East-West Powerboat Shootout, Corpus Christi, TX as set out below;

e. Add new unit VIII Marine Safety Office Port Arthur to include the entries Rubber Ducky Derby, Beaumont, TX, and Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX as set out below.

The revisions and additions read as follows:

§ 100.801 Annual Marine Events in the Eighth Coast Guard District.

* * * * *

Table 1 of § 100.801

I. Group Upper Mississippi River

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II. Group Ohio Valley

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III. Group Lower Mississippi River

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IV. Group Mobile

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8. Independence Day Fireworks, Destin, FL

Sponsor: City of Destin, FL.

Date: 1 Day—4th of July.

Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL.

* * * * *

16. Annual Labor Day Fireworks

Sponsor: City of Destin, FL.

Date: 1 Day—Day of or Day before Labor Day.

Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL.

* * * * *

18. Independence Day Fireworks, Mobile, AL

Sponsor: The Mobile Register.

Date: 1 Day—4th of July.

Regulated Area: From the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North.

19. Blue Angels Air Show, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL.

Date: 2 Days—2nd weekend in July.

Regulated Area: A five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront.

20. Fort-to-Fort Swim, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL.

Date: 1 Day—1st weekend in August.

Regulated Area: Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16.

21. Keesler Air Force Base Air Show, Biloxi, MS

Sponsor: Keesler Air Force Base, Biloxi, MS.

Date: 2 Days—1st weekend in November.

Regulated Area: Bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees, 55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West.

22. Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

Sponsor: The Krewe of Billy Bowlegs of Okaloosa County, Inc.

Date: 2 Days—1st weekend in June.

Regulated Area: Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou.

* * * * *

V. Group New Orleans

* * * * *

VI. Group Galveston

1. Neches River Festival, Beaumont, TX

Sponsor: Neches River Festival, Inc.

Date: 2 Days—2nd, 3rd, or 4th Weekend in April.

Regulated Area: Neches River from Collier's Ferry Landing to Lawson's Crossing at the end of Pine St., Beaumont, TX.

* * * * *

VII. Group Corpus Christi

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8. East-West Powerboat Shootout, Corpus Christi, TX

Sponsor: EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association.

Date: 2 Days—1st or 2nd weekend in June.

Regulated Area: Bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West.

VIII. Marine Safety Office Port Arthur

1. Rubber Ducky Derby, Beaumont, TX

Sponsor: C P Rehabilitation Center.

Date: 1 Day—2nd, 3rd, or 4th Saturday in April.

Regulated Area: All waters of the Neches River, bank to bank, from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5.

2. Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

Sponsor: The City of Port Arthur and Lamar State College.

Date: 1 Day—4th of July.

Regulated Area: All waters of the Sabine-Neches Canal, bank to bank, from Wilson Middle School to the northern terminus of Old Golf Course Road.

Dated: February 7, 2002.

Roy J. Casto,

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

[FR Doc. 02-4086 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA 01-117]

RIN 2115-AA97

Security Zones; Port of Tampa, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones of

100 yards around moored vessels carrying or transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade “A” and “B” flammable liquid cargoes. The purpose of these security zones is to safeguard the public and ports from destruction, loss, or injury from sabotage or other subversive acts. No person or vessel may enter a security zone without permission from the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This regulation is effective from 6 p.m. on October 5, 2001 until 6 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of COTP Tampa 01-117 and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606-3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David McClellan, Coast Guard Marine Safety Office Tampa, at (813) 228-2189.

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 rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

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

Based on the September 11, 2001 terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of Tampa, Florida, moored vessels carrying or transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade “A” and “B” flammable liquid cargoes and the terminals to which they are tied. No vessel may transit within 100 yards of moored vessels carrying or

transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade “A” and “B” flammable liquid cargoes.

Coast Guard and local police department patrol vessels will be on scene to monitor traffic through these areas. Entry into a security zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channels 13 and 16 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because the zones only extends 100 yards around the subject vessels and vessels may enter the zones with the permission of the Captain of the Port of Tampa.

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 businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

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 can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance,

please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Unfunded Mandates 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 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.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2-1, paragraph

34(g) of Commandant Instruction M16475.1D, this 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**.

Protection of Children

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

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 relationships 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 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 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 6.04-11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07-117 is added to read as follows:

§ 165.T07-117 Security Zones; Port of Tampa, Tampa Florida.

(a) *Regulated area.* Temporary security zones are established 100 yards around moored vessels carrying or transferring Liquefied Petroleum Gas (LPG), Anhydrous Ammonia (NH₃) and/or grade "A" and "B" flammable liquid cargoes in the Port of Tampa, Florida.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, petty officer, or other law enforcement official designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channels 13 and 16 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

(c) *Dates.* This section is effective from 6 p.m. on October 5, 2001 until 6 p.m. on June 15, 2002.

Dated: October 5, 2001.

A.L. Thompson, Jr.,

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

[FR Doc. 02-4286 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02-001]

RIN 2115-AA97

Security Zone; Operation Native Atlas 2002, Waters Adjacent to Camp Pendleton, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the waters adjacent to Camp Pendleton, California. This action is taken at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) San Diego, or his designated representative.

DATES: This rule is effective from 12:01 a.m. (PST) on February 21, 2002 to 11:59 p.m. (PDT) on May 15, 2002.

ADDRESSES: Any comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, are part of docket COTP San Diego 02-001, and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683-6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

This rulemaking action was taken at the request of the United States Navy and is considered necessary to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. This temporary security zone is necessary for protection of the public from the hazards of upcoming Naval operations in support of Operation Native Atlas 2002 in the area and for the protection of the operations from compromise and interference.

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

Due to the complex planning, national security reasons, and the coordination involved with Naval scheduling, final details for the Operation Native Atlas 2002 were not provided to the Coast Guard in time to draft and publish a NPRM or a final rule 30 days in advance of its effective date. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the Naval vessels, their crew and national security.

Furthermore, in order to protect the interests of national security, the Coast Guard is promulgating this temporary regulation to provide for the safety and security of U.S. Naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of this security zone is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C.

553(a)(1), notice and comment rulemaking and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Background and Purpose

United States Navy officials have requested that the Captain of the Port (COTP), San Diego, California establish a temporary security zone in the area of Camp Pendleton California. This request was made to improve security of Naval facilities and operations at this location and to protect the public from hazardous operations. Several hazardous or classified naval operations, including activities related to Operation Native Atlas 2002, will be conducted near this location, that are vital to national security and require protection of the public or protection of the operation from compromise and interference. The Captain of the Port concurs with the need for this security zone. The security zone is needed to protect persons and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature, and to secure the interests of the United States.

This security zone is necessary to provide for the safety and security of the United States of America. This security zone, prohibiting all vessel traffic from entering, transiting or anchoring within the areas defined by the security zone, is necessary for the security and protection of national assets. U.S. Navy personnel and U.S. Coast Guard vessels will enforce this zone.

Persons and vessels are prohibited from entering into this security zone unless authorized by the Captain of the Port or his designated representative. Each person and vessel in a security zone shall obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the COTP.

This security zone is established pursuant to the authority of The Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including Subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations. Vessels or persons violating this section are subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel, a monetary penalty of not more than \$10,000, and imprisonment for not more than 10 years.

Regulatory Evaluation

This temporary final rule is not a "significant regulatory action" under

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

Due to national security interests, the implementation of this security zone is necessary for the protection of the United States and its people. The size of the zone is the minimum necessary to provide adequate protection for U.S. Naval vessels, their crews, adjoining areas, and the public. The entities most likely to be affected, if any, are pleasure craft engaged in recreational activities and sightseeing. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews, and the public.

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 impact on a substantial number of small entities. The term "small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

This security zone will not have a significant impact on a substantial number of small entities because these security zones are only closing small portions of the navigable waters adjacent to Camp Pendleton, California. In addition, there are no small entities shoreward of the security zone. For these reasons, and the ones discussed in the previous section, the Coast Guard certifies, under 5 U.S.C. 605(b), that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard offers to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lt Rick Sorrell, Chief of Port Operations, Marine

Safety Office San Diego, at (619) 683-6495.

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 under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add new § 165.T11-033 to read as follows:

§ 165.T11-033 Security Zone: Waters Adjacent to Camp Pendleton, California.

(a) *Location.* The following area is a security zone: All waters and shoreline areas within the following boundaries: A point on the shore at N33-12.4 W117-23.6 (Point A), proceeding south westward to N33-09.5 W117-28.5 (Point B), then north westward to N33-19.1 W117-38.1 (Point C), then north eastward to the shore at 33-22.0 W117-33.4 (Point D).

(b) *Effective dates.* This section will be in effect from 12:01 a.m. (PST) on February 21, 2002 to 11:59 p.m. (PDT) on May 15, 2002. If the need for this security zone ends before the scheduled termination time and date, the Captain of the Port will cease enforcement of the security zones and will also announce that fact via Broadcast Notice to Mariners and Local Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person or vessel may enter or remain in the security zone established by this temporary regulation, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary regulation. Mariners requesting permission to transit through the security zones must request authorization to do so from the Captain of the Port, who may be contacted at (619) 683-6495, or U.S. Navy Force Security Officer (FSO), who may be reached during normal working hours at (619) 437-9828. After normal working hours the FSO can be reached at (619) 437-9480.

(d) The U.S. Navy may assist the U.S. Coast Guard in the patrol and enforcement of this security zone.

Dated: February 13, 2002.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 02-4289 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-15-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

RIN 3095-AB01

Research Room Procedures

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is amending its regulations on use of NARA research rooms to add a policy on use of public access personal computers (workstations) in the research rooms. These NARA-provided workstations will provide researcher access to the Internet. We are also clarifying that, in research rooms where the plastic researcher identification card is also used with the facility's security system, we will issue a plastic card to researchers who have a paper card from another NARA facility. This rule will affect researchers who use NARA research facilities nationwide.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301-713-7360, ext. 226, or fax number 301-713-7270.

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on September 7, 2001 at 66 FR 46752. The comment period ended on November 6, 2001. NARA received no public comments, and is issuing this final rule without change.

The public access computers described in § 1254.25 are being installed in research and/or consultation rooms in all NARA archival facilities, including regional archives and Presidential libraries, to provide Internet access for research purposes, such as access to NARA's Archival Information Locator (NAIL), and NAIL's successor, the Archival Research Catalog (ARC). Computers designated for public use provide Internet access only. At least one of the public Internet access workstations in each facility complies with the Workforce Investment Act of 1998, ensuring comparable accessibility to individuals with disabilities. Individual accessibility requirements are addressed on an as-needed basis. We encourage people who require assistive technology to notify the appropriate research room at least two weeks in advance.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to individuals conducting research on NARA premises. This regulation does not have any federalism or tribal implications.

List of Subjects in 36 CFR Part 1254

Archives and records.

For the reasons set forth in the preamble, NARA amends part 1254 of title 36, Code of Federal Regulations, as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101-2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Revise § 1254.6 to read as follows:

§ 1254.6 Researcher identification card.

(a) An identification card is issued to each person who is approved to use records other than microfilm. Cards are valid for one year, and may be renewed upon application. Cards are valid at each facility, except as described in paragraph (b) of this section. They are not transferable and must be presented if requested by a guard or research room attendant.

(b) At the National Archives in College Park and other NARA facilities that issue and use plastic researcher identification cards as part of their security systems, paper researcher identification cards issued at other NARA facilities are not valid. In facilities that use plastic researcher identification cards, NARA will issue a plastic card to replace the paper card at no charge.

3. Add § 1254.25 to read as follows:

§ 1254.25 Rules for public access use of the Internet on NARA-supplied personal computers.

(a) Public access personal computers (workstations) are available for Internet use in all NARA research rooms. The number of workstations varies per location. These workstations are intended for research purposes and are provided on a first-come-first-served basis. When others are waiting to use the workstation, a 30-minute time limit may be imposed on the use of the equipment.

(b) Researchers should not expect privacy while using these workstations. These workstations are operated and maintained on a United States Government system, and activity may be monitored to protect the system from unauthorized use. By using this system, researchers expressly consent to such monitoring and the reporting of unauthorized use to the proper authorities.

(c) At least one Internet access workstation will be provided in each facility that complies with the Workforce Investment Act of 1998,

ensuring comparable accessibility to individuals with disabilities.

(d) Researchers may download information to a diskette and print materials, but the research room staff will furnish the diskettes and paper. Researchers may not use personally owned diskettes on NARA personal computers.

(e) Researchers may not load files or any type of software on these workstations.

Dated: February 15, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02-4211 Filed 2-21-02; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA-47-2; GA-55-2; GA-58-2-200216; FRL-7148-4]

Approval and Promulgation of Air Quality State Implementation Plans; Georgia: Control of Gasoline Sulfur and Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision, submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD), establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Georgia developed these fuel requirements to reduce emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Atlanta nonattainment area. EPA is approving Georgia's fuel requirements into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

EFFECTIVE DATE: This final rule is effective on March 25, 2002.

ADDRESSES: Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61

Forsyth Street, SW, Atlanta, Georgia 30303-8960. Lynorae Benjamin, (404) 562-9040.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363-7000.

FOR FURTHER INFORMATION CONTACT:

Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION: On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-hour ozone NAAQS for the Atlanta nonattainment area for inclusion into the Georgia SIP. This submittal included a version of the low-sulfur/low-RVP fuel regulations that has subsequently been amended by the State, and submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001. The version submitted on August 21, 2001, which is the subject of this final rulemaking, is the "Gasoline Marketing Rule," provided in Georgia's Rules for Air Quality Control, Chapter 391-3-1.02(2) (bbb).

On May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD also submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Act, the fuel control is necessary to achieve a NAAQS. On November 9, 2001, GAEPD submitted an updated "necessity" demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations. Specifically, the Georgia "necessity" demonstration submittals contain data and analyses to support a finding under section 211(c)(4)(C) that the State's low-sulfur and low-RVP requirements are necessary for the Atlanta nonattainment area to achieve the ozone NAAQS. On December 11, 2001, (66 FR 63982) EPA published a notice of proposed rulemaking (NPR) to approve the fuel waiver request and fuel rule. That NPR provides a detailed description of this action and EPA's rationale for proposed approval. The public comment period

for this action ended on January 25, 2002. No comments, adverse or otherwise, were received on EPA's proposal.

Final Action

EPA is approving Georgia's low-sulfur/low-RVP fuel program into the federally enforceable SIP because the fuel requirements are in accordance with the Act, are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner, and will supply some or all of the reductions needed to achieve the ozone NAAQS.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2001). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely

approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of prior existing requirements for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 23, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: February 4, 2002.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Section 52.569 is removed and reserved.

3. Section 52.570 is amended by:

a. Adding in the table to paragraph (c) a new entry in numerical order for 391–3–1–.02(2)(bbb); and

b. Adding two new entries 16 and 17 in numerical order to the table in paragraph (e).

The additions read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
391–3–1–.02(2)(bbb)	Gasoline Marketing Rule	07/18/01	2/22/02	*
* * *	* * *	* * *	* * *	* * *
(e) * * *				

EPA APPROVED GEORGIA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date
* * *	* * *	* * *	* * *
16. Preemption Waiver Request for Low-RVP, Low-Sulfur Gasoline Under Air Quality Control Rule 391–3–1–.02(2)(bbb).	Atlanta Metropolitan Area	May 31, 2000	February 22, 2002
17. Technical Amendment to the Georgia Fuel Waiver Request of May 31, 2000.	Atlanta Metropolitan Area	November 9, 2001	February 22, 2002

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[FR Doc. 02–4142 Filed 2–21–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[AD–FRL–7148–7]

RIN 2060–AE34

National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On June 17, 1999, we issued the national emission standards for hazardous air pollutants (NESHAP) from Oil and Natural Gas Production Facilities and the national emission

standards for hazardous air pollutants from Natural Gas Transmission and Storage Facilities (Oil and Gas NESHAP). On June 29, 2001, we issued technical corrections to clarify intent and correct errors in the Oil and Gas NESHAP. This technical correction will correct an error that was made in the technical correction for the Natural Gas Transmission and Storage Facilities NESHAP and will not change the level of health protection the Natural Gas Transmission and Storage Facilities NESHAP provide or the basic control requirements of the Natural Gas Transmission and Storage Facilities NESHAP. The NESHAP require new and existing major sources to control emissions of hazardous air pollutants (HAP) to the level reflecting application of the maximum achievable control technology.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public

procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this error correction without prior proposal and opportunity for comment because the change to the rule is a minor technical correction, is noncontroversial in nature, and does not substantively change the requirements of the Natural Gas Transmission and Storage Facilities NESHAP. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(5).

EFFECTIVE DATE: February 22, 2002.

ADDRESSEES: Docket No. A–94–04 contains the supporting information used in the development of this rulemaking. The docket is located at the U.S. EPA in room M–1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m.,

Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Nizich, Waste and Chemical Processes Group, Emission Standards Division (C439-03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-3078, facsimile: (919) 541-0246, electronic mail address: nizich.greg@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities that will potentially be affected by this correction are those that store or transport natural gas and are major sources of HAP as defined in section 112 of the Clean Air Act. The regulated categories and entities include:

Category	Examples of regulated entities
Industry	Glycol dehydration units and natural gas transmission and storage facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1270 of the Natural Gas Transmission and Storage Facilities NESHAP. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. *World Wide Web (WWW).* The text of today's document will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

I. Correction

Today's action consists of one error correction to the Natural Gas Transmission and Storage Facilities NESHAP technical corrections that were published on June 29, 2001 (66 FR 34548). This error correction is minor in nature and noncontroversial. We have

deleted a subparagraph that was intended to have been deleted from the applicability section of the Natural Gas Transmission and Storage Facilities NESHAP.

The correction in today's action is being made to remove subparagraph § 63.1270(a)(1)(iv) that mistakenly remained in the June 29, 2001 technical corrections. In that action a single equation was added to simplify a four-step process to calculate natural gas throughput. The deletion of this subparagraph will avoid confusion and make it clear that only the single equation added in the June 29, 2001 action is used in determining natural gas throughput.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This technical correction also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This technical correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this technical correction, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation,

and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this rule amendment in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the June 17, 1999 (64 FR 32610) **Federal Register** publication containing the Oil and Natural Gas Production final rule and Natural Gas Transmission and Storage final rule.

This technical correction is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of February 22, 2002. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations,

Reporting and recordkeeping requirements.

Dated: February 14, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart HHH—[Amended]

2. Section 63.1270 is amended by removing paragraph (a)(1)(iv).

[FR Doc. 02-4301 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-299; MM Docket No. 98-159; RM-9290]

Radio Broadcasting Services; Wallace, ID, and Bigfork, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule, petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Bee Broadcasting, Inc. directed to the *Report and Order* in this proceeding. See 66 FR 29726, published May 17, 2001. Specifically, that action reallocated Channel 264C to Bigfork, Montana, and modified the Station KSIL construction permit accordingly.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418-2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 98-159, adopted February 6, 2002, and released February 8, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. The complete text of this decision 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.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4219 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-296; MM Docket No. 01-250, RM-10273; MM Docket No. 01-251, RM-10274 and MM Docket No. 01-253, RM-10276]

Radio Broadcasting Services; Cheyenne Wells, Flagler, and Stratton, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants three proposals that allot new FM channels to Cheyenne Wells, Flagler, and Stratton, Colorado. Filing windows for Channel 224C1 at Cheyenne Wells, Colorado, Channel 283C3 at Flagler, Colorado, and Channel 246C1 at Stratton, Colorado, will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order. See Supplementary Information.

DATES: Effective March 25, 2002.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 01-250, MM Docket No. 01-251, and MM Docket No. 01-253, adopted January 30, 2002, and released February 8, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The 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.

The Commission, at the request of Cheyenne Wells Broadcasting, allots Channel 224C1 at Cheyenne Wells,

Colorado, as the community's first local aural transmission service. See 66 FR 50602 (October 4, 2001). Channel 224C1 can be allotted at Cheyenne Wells in compliance with the Commission's minimum distance separation requirements with no site restrictions. The coordinates for Channel 224C1 at Cheyenne Wells are 38-49-16 North Latitude and 102-21-09 West Longitude.

The Commission, at the request of Flagler Broadcasting, allots Channel 283C3 at Flagler, Colorado, as the community's first local aural transmission service. See 66 FR 50602 (October 4, 2001). Channel 283C3 can be allotted to Flagler in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.5 kilometers (4.1 miles) west of Flagler. The coordinates for Channel 283C3 at Flagler are 39-17-17 North Latitude and 103-08-32 West Longitude.

The Commission, at the request of Stratton Broadcasting, allots Channel 246C1 at Stratton, Colorado, as the community's first local aural transmission service. See 66 FR 50602 (October 4, 2001). Channel 246C1 can be allotted to Stratton in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.3 kilometers (2.7 miles) east of Stratton, Colorado. The coordinates for Channel 246C1 at Stratton are 39-18-34 North Latitude and 102-33-17 West Longitude.

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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Cheyenne Wells, Channel 224C1; Flagler, Channel 283C3; and Stratton, Channel 246C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4218 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 02-300; MM Docket No. 01-18; RM-10026; RM-10098]

Radio Broadcasting Services; Arriba, Bennett, Brush and Pueblo, CO; Pine Bluffs, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a proposal filed by Alan Olson, this document allots Channel 240A to Arriba, Colorado, for previously proposed Channel 297A. See 66 FR 9683, February 9, 2001. Additionally, in response to a counterproposal filed jointly on behalf of KKDD-FM Broadcasters, Inc. LLC, licensee of Station KSIR-FM, Brush, Colorado, and Metropolitan Radio Group, Inc, licensee of Station KNKN, Pueblo, Colorado ("counterproponents"), this document substitutes Channel 296C for Channel 296C1 at Brush, reallocates Channel 296C to Bennett, Colorado, as that community's first local aural service, and modifies the license for Station KSIR-FM, as requested. In order to accommodate the Bennett allotment, this document also substitutes Channel 295C2 for Channel 296C2 at Pueblo, Colorado, at a new transmitter site, and modifies the license for Station KNKN, as requested. Additionally, Channel 238C3 is allotted to Pine Bluffs, Wyoming, as requested by the counterproponents. Coordinates used for Channel 240A at Arriba, Colorado, are 39-17-12 NL and 103-16-30 WL; coordinates used for Channel 296C at Bennett, Colorado, are 39-54-34 NL and 103-57-58 WL; coordinates used for Channel 295C2 at Pueblo, Colorado, are 38-06-32 NL and 104-29-18 WL; coordinates used for Channel 238C3 at Pine Bluffs, Wyoming, are 41-00-23 NL and 104-00-34 WL.

DATES: Effective March 25, 2000. A filing window for Channel 240A at Arriba, Colorado, and for Channel 238C3 at Pine Bluffs, Wyoming, 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. 01-18, adopted January 30, 2002, and released

February 8, 2002. 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. 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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Arriba, Channel 240A; by adding Bennett, Channel 296C; by removing Channel 296C1 at Brush;¹ by removing Channel 296C2 at Pueblo and adding Channel 295C2.

3. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 238C3 at Pine Bluffs.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4217 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION**Transportation Security Administration****49 CFR Parts 1540 and 1544**

[Docket No. TSA-2002-11604]

RIN 2110-AA04

Security Programs for Aircraft 12,500 Pounds or More

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This rule requires that certain aircraft operators using aircraft with a

¹ 47 CFR Parts 70 to 79, revised October 1, 2000, at Section 73.202(b) under Colorado, reflects the allotment of Channel 296A at Brush, Colorado. However, that allotment was modified in the context of MM Docket No. 88-605, adopted September 11, 1989, to specify Channel 296C1.

maximum certificated takeoff weight of 12,500 pounds or more carry out security measures. This rule requires that certain aircraft operators conduct criminal history records checks on their flightcrew members, and restrict access to the flight deck. These measures are necessary to comply with Congressional mandates and to enhance security in air transportation.

DATES: This rule is effective June 24, 2002. Submit comments by April 23, 2002.

ADDRESSES: *Comments Submitted by Mail:* Address written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590. You must identify the docket number TSA-2002-11604 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that TSA received your comments, include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. TSA-2002-11604." The postcard will be date-stamped and mailed to you.

Comments Filed Electronically: You may also submit comments through the Internet at <http://dms.dot.gov>.

Reviewing Comments in the Docket: You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Lon Siro, Transportation Security Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone 202-267-3413.

SUPPLEMENTARY INFORMATION:**Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb. 26, 1979), however provides that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or

international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with TSA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

TSA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Availability of Final Rule

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

- (1) Go to 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 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 final rule.

You can also get an electronic copy using the Internet through the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

In addition, copies are available by writing or calling the Transportation Security Administration's Air Carrier Division, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202-267-3413.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT** for information. You can get further information regarding SBREFA on the Small Business Administration's Web page at http://www.sba.gov/advo/laws/law_lib.html.

Abbreviations and Terms Used in This Document

ATSA—Aviation and Transportation Security Act
CHRC—Criminal history records check
SIDA—Security identification display area

Background

History and Current Regulations

On November 16, 2001, the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71), was enacted. ATSA created the Transportation Security Administration (TSA), and transferred aviation security functions from the Federal Aviation Administration (FAA) to TSA. The civil aviation security rules have been transferred from the FAA (in title 14, Code of Federal Regulations) to TSA (in title 49, Code of Federal Regulations) in a separate rulemaking (see docket number TSA-2002-11602).

Section 132(a) of ATSA requires the Under Secretary of Transportation for Security to "implement a security program for charter air carriers * * * with a maximum certificated takeoff weight of 12,500 pounds or more."

Title 49 of the Code of Federal Regulations (CFR) part 1544 requires that certain aircraft operators have security programs. These include:

- Those operating scheduled or public charter passenger operations with 61 or more passenger seats (full programs).
- Those operating scheduled or public charter passenger operations with any size aircraft that enplane passengers from or deplane passengers into a sterile area (full programs).
- Those operating scheduled or public charter operations in aircraft with 31 to 60 passenger seats (partial programs).
- Those operating private charter operations that enplane passengers from or deplane passengers into sterile areas (private charter program).

In addition, an aircraft operator that is not required to have a security program under part 1544 may request a limited program in order to carry out certain activities. For instance, certain all-cargo aircraft operators have security programs that allow them to take over from the airport certain security functions at an airport, or that allow them to perform certain security measures to facilitate transferring cargo to passenger aircraft operators.

Further, Special Federal Aviation Regulation (SFAR) 91 imposed security requirements on certain operators. See 66 FR 50531 (October 4, 2001). Paragraph 1(b) required that aircraft operations in aircraft with a maximum

certificated takeoff weight of more than 12,500 pounds carry out security procedures when notified by the Administrator of the FAA. In October 2001, the FAA notified all-cargo operators using aircraft with a maximum certificated takeoff weight of more than 95,000 pounds to carry out certain security procedures. SFAR 91 was transferred, with changes, to 49 CFR part 1550.

ATSA section 132(a) expands the number of aircraft operations that must be under a security program. It requires security measures for smaller aircraft, and for cargo aircraft, that are not required to be under security programs under current rules.

Aircraft that have a maximum certificated takeoff weight of 12,500 pounds or more generally have 18 or more passenger seats. Part 1544 does not require security programs for passenger operations in aircraft with 30 seats or fewer. Accordingly, this rule requires security programs for the operation of smaller aircraft than under current rules. Note that some aircraft operators have full programs for operation of aircraft with 30 or fewer seats to allow them to enplane from and deplane into sterile areas.

Part 1544 does not require all-cargo operators to have security programs. However, section 132(a) is not limited to passenger operations. Further, the events on September 11, 2001, demonstrate the ability to use aircraft to endanger persons on the ground. An aircraft so used is just as dangerous whether it holds cargo or passengers. Accordingly, this rule requires security programs for both passenger and all-cargo operations using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more. As noted above, some all-cargo aircraft operators currently have limited security programs under part 1544, or have security programs under § 1550.7.

Section 132(a) requires additional security measures for charter air carriers. In addition, there is no reason to apply additional security measures to charter air carriers, however, without also applying them to scheduled operations. Both carry passengers and property for hire. For both, the passengers rely on the aircraft operator to provide a safe and secure flight, and the potential for a criminal or terrorist threat against a scheduled operation is no less than against a charter operation. Accordingly, this rule applies security measures for both scheduled and charter service.

Analysis of the Amendments

These amendments incorporate the new requirements in section 132(a) of ATSA, and require aircraft operators with aircraft having a maximum certificated takeoff weight of 12,500 pounds or more to have security programs for certain operations. This rule also requires certain additional measures for operators with full and partial security programs.

Twelve-Five Security Program

This rule introduces a new security program, the twelve-five program. It applies to operations conducted in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more; in scheduled or charter service; carrying passengers or cargo or both; and not presently required to have a full program or partial security program. The contents of this new security program are similar to that for partial security programs. The main difference is that holders of twelve-five security programs are not required to participate in an airport operator-sponsored exercise of the airport contingency plan as described in § 1544.301(c). These operators are often small and conduct operations at airports without such contingency plans, or use only remote areas of airports that have them. Participation in this exercise may be very burdensome. Note that the airport operator may require any aircraft operator using its airport to participate in such exercises as a condition of using the airport.

Fingerprint-Based Criminal History Records Checks (CHRC): Flightcrew Members

Currently, under § 1544.229, individuals with unescorted access to the security identification display area (SIDA), individuals with authority to perform screening functions, and individuals with authority to perform certain checked baggage and cargo functions must undergo a CHRC. New § 1544.230 applies this same requirement to flightcrew members. "Flightcrew member" is defined in 14 CFR 1.1, and now in 49 CFR 1540.5, as a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.

It is important that TSA require additional background checks to be conducted on flightcrew who operate aircraft that could be used to endanger others. Congress has determined that fingerprint-based CHRCs are an important measure in checking the background of individuals who have access to aircraft. See 49 U.S.C. 44936.

The use of CHRCs for flightcrew will provide an additional assurance that they are suitable to carry out essential duties in the aviation system.

Section 1544.230 (a) states the scope of the section. It applies to each flightcrew member for each aircraft operator. Amendments to §§ 1544.101 and 1544.103 make clear that § 1544.230 is applicable to flightcrew members not only under a twelve-five program, but also flightcrew members for each aircraft operation under a full program, a partial program, or a private charter program, unless the individual is already subject to § 1544.229. In considering what security measures to apply to the twelve-five operators, it was apparent that the enhanced security of a CHRC for flightcrew should apply to all operations in the larger aircraft. Most flightcrew members in operations under full security programs are now subject to CHRCs under § 1544.229 because they need unescorted access to the SIDA to perform preflight inspections of their aircraft and other functions. Some flightcrew of all-cargo carriers also have undergone CHRCs because they operate in a SIDA, too. This rule, however, will require flightcrew members who operate under partial security programs or SFAR 91 security programs and those that, until now, have not operated under security programs, to undergo CHRCs. Note that this rule does not specifically apply to flightcrew for operations under limited programs. If the limited program includes access to the SIDA, however, § 1544.230 will be incorporated into the program.

Under § 1544.230, the aircraft operator must ensure that flightcrew members undergo a fingerprint-based CHRC that is largely the same as in § 1544.229. See 66 FR 63474 (December 6, 2001) and the rule (docket number TSA-2002-11602) that adopts § 1544.229 for a full discussion of these procedures.

Aircraft operators that now hold partial programs or that will hold twelve-five programs have not, for the most part, been required to carry out CHRCs in the past. They must be provided with sufficient time to learn how to perform this function and make all necessary arrangements. On the other hand, Congress made clear in ATSA section 132(a) that additional security measures must be implemented without undue delay. The compliance date for this section is December 6, 2002, which is intended to give sufficient time to perform this function without undue delay. This is the same date that operators under full programs must

complete CHRCs on certain current employees. See 66 FR 63474.

Flight Deck Privileges

Section 1544.237 requires that each aircraft operator restrict access to the flight deck, as provided in its security program. There currently are restrictions on access to the flight deck, such as 14 CFR 121.547, 121.548, and 121.550. After September 11, the FAA issued Security Directives to operators with full programs further restricting access to the flight deck to provide increased security for the flightcrew. The security program for all-cargo operators under SFAR 91 also includes increased flight deck restrictions. ATSA clearly requires that the flight deck must have additional protections. See section 104. The increased security measures for access to the flight deck provide additional protection by limiting the opportunity for an individual to endanger the flightcrew members and thereby endanger the flight.

This section incorporates such restrictions into the security program for each aircraft operator. Amendments to §§ 1544.101 and 1544.103 make clear that this section applies to all operators with full programs, partial programs, and twelve-five programs.

Paragraph (b) makes clear that this section does not restrict access for an FAA air carrier inspector or an authorized representative of the National Transportation Safety Board under 14 CFR 121.547, 121.548, 125.315, 125.317, or 135.75; or for an Agent of the United States Secret Service under 14 CFR 121.550. Further, this section does not restrict access for a Federal Air Marshal under § 1544.223. Such individuals have essential safety and security duties and, if they are authorized in accordance with 14 CFR 121, 125, or 135, or 49 CFR 1544.223, they must be admitted to the flight deck on request.

Carriage of Emergency Equipment in Alaska

TSA is aware that in the state of Alaska, operators of some aircraft of the size covered by the twelve-five program are required to carry emergency equipment to use if they must make a forced landing at a remote site. Alaska has vast areas that are accessible only by air. If an aircraft is forced to land in that kind of area, it may take some time to locate. Wildlife can pose serious threats to individuals. Alaska law provides that aircraft must have emergency equipment on board, including such things as food for each occupant sufficient to sustain life for two weeks, an axe or hatchet, a firearm, a knife,

matches, and signaling devices such as smoke bombs. See Alaska Stat. section 02.35.110. While there are exemptions from some of these requirements for larger aircraft, some aircraft subject to the twelve-five security program are required under Alaska law to have firearms, signaling devices, and other items that otherwise would not be permitted.

TSA recognizes that travel in Alaska poses unique circumstances and dangers for which the aircraft operator must be prepared. Accordingly, TSA will approve amendments to the security programs of operators in Alaska to ensure that they may comply with Alaska law and carry emergency equipment for the safety of the passengers and crew.

Good Cause for Immediate Adoption

This action is necessary to prevent a possible imminent hazard to aircraft and persons and property within the United States. Because the circumstances described herein warrant immediate action, Under Secretary of Transportation for Security finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

Paperwork Reduction Act

This emergency rule contains information collection activities subject to the Paperwork Reduction Act (44 U.S.C. 3507(d)). In accordance with the Paperwork Reduction Act, the paperwork burden associated with the rule will be submitted to the Office of Management and Budget (OMB) for review. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register** after it has been approved by the Office of Management and Budget.

Need: This rule requires aircraft operators using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more to implement an aviation security program.

Description of Respondents: All new and existing aircraft operators using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more.

Burden: TSA does not currently have concise data on which aircraft operators have aircraft 12,500 pounds or more. Accordingly, TSA will calculate the paperwork burden assuming that all aircraft operators will be subject to this

rule. Thus, these assumptions will overestimate the overall burden. In addition, TSA assumes no change in the number of aircraft operators over the next 10 years. Without this simplifying assumption, it would be impossible to estimate the total effects of these changes over the ten-year period.

Each air carrier subject to this rule will need to fingerprint all its flightcrew members; train all employees with security-related duties; acknowledge receipt of, and distribute, Security Directives and Information Circulars; and prepare, maintain, and accommodate modifications to a security program. The total ten-year burden is approximately 608,470 hours at a cost of \$14,613,040. The annual burden sums to about 60,850 hours at a cost of \$1,461,300.

TSA anticipates that the regulated entities will have to purchase no additional equipment.

Economic Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, the Regulatory Flexibility Act does not apply. TSA recognizes that this rule may impose significant costs on aircraft operators. An assessment will be conducted in the future. The current security threat requires, however, that operators take necessary measures to ensure the safety and security of their operations. This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 13132, Federalism

TSA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we

have determined that this final rule does not have Federalism implications.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when rulemaking actions are taken without the issuance of a notice of proposed rulemaking. Accordingly, TSA has not prepared a statement under the Act.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended (42 U.S.C. 6362). It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects**49 CFR Part 1540**

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1544

Air carriers, Aircraft, Aviation safety, Freight forwarders, Reporting and recordkeeping requirements, Security measures.

The Amendments

For the reasons stated in the preamble, the Transportation Security Administration amends 49 CFR chapter XII as follows:

PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

1. The authority citation for part 1540 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

2. Amend 1540.5 by adding the definition of “Flightcrew member” in alphabetical order as follows:

§ 1540.5 Terms used in this subchapter.

* * * * *

Flightcrew member means a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.

* * * * *

PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

3. The authority for part 1544 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

4. Amend § 1544.1 by revising paragraph (a)(1) to read as follows:

§ 1544.1 Applicability of this part.

(a) * * *

(1) The operations of aircraft operators holding operating certificates under 14 CFR part 119 for scheduled passenger operations, public charter passenger operations, private charter passenger operations; the operations of aircraft operators holding operating certificates under 14 CFR part 119 operating aircraft with a maximum certificated takeoff weight of 12,500 pounds or more; and other aircraft operators adopting and obtaining approval of an aircraft operator security program.

* * * * *

5. Amend § 1544.101 by revising paragraphs (c), (f), and (g), and by

adding paragraphs (d) and (e) to read as follows:

§ 1544.101 Adoption and implementation.

* * * * *

(c) *Partial program-content:* For operations described in paragraph (b) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements in § 1544.103 (c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.223, 1544.230, 1544.235, 1544.237, 1544.301, 1544.303, and 1544.305.

(2) Other provisions of subparts C, D, and E of this part that TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(d) *Twelve-five program-adoption:* Each aircraft operator must carry out the requirements of paragraph (e) of this section for each operation that meets all of the following—

(1) Is in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more;

(2) Is in scheduled or charter service;

(3) Is carrying passengers or cargo or both; and

(4) Is not under a full program or partial program under paragraph (a) or (b) of this section.

(e) *Twelve-five program-contents:* For each operation described in paragraph (d) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 (c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.223, 1544.230, 1544.235, 1544.237, 1544.301(a) and (b), 1544.303, and 1544.305.

(2) Other provisions of subparts C, D, and E that TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(f) *Private charter program:* In addition to paragraph (d) of this section, if applicable, each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.213, 1544.215, 1544.217, 1544.219, 1544.229, 1544.230, 1544.233, 1544.235, 1544.303, 1544.305, and subpart E, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter operation in which passengers are enplaned from or deplaned into a sterile area.

(g) *Limited program:* In addition to paragraph (d) of this section, if applicable, TSA may approve a security program after receiving a request by an aircraft operator holding a certificate under 14 CFR part 119, other than one identified in paragraph (a), (b), (d), or (f) of this section. The aircraft operator must—

(1) Carry out selected provisions of subparts C, D, and E;

(2) Carry out the provisions of § 1544.305, as specified in its security program; and

(3) Adopt and carry out a security program that meets the applicable requirements of § 1544.103 (c).

6. Amend § 1544.103 by revising (c)(1), (c)(15), and adding (c)(21) to read as follows:

§ 1544.103 Form, content, and availability.

* * * * *

(c) * * *

(1) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.201 regarding the acceptance and screening of individuals and their accessible property, including, if applicable, the carriage weapons as part of State-required emergency equipment.

* * * * *

(15) The procedures used to comply with the applicable requirements of §§ 1544.229 and 1544.230 regarding fingerprint-based criminal history records checks.

* * * * *

(21) The procedures used to comply with § 1544.237 regarding flight deck privileges.

* * * * *

7. Add § 1544.230 to read as follows:

§ 1544.230 Fingerprint-based criminal history records checks (CHRC): Flightcrew members.

(a) *Scope.* This section applies to each flightcrew member for each aircraft operator, except that this section does not apply to flightcrew members who are subject to § 1544.229.

(b) *CHRC required.* Each aircraft operator must ensure that each flightcrew member has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in § 1544.229(d), before allowing that individual to serve as a flightcrew member.

(c) *Application and fees.* Each aircraft operator must ensure that each flightcrew member's fingerprints are obtained and submitted as described in § 1544.229 (e) and (f).

(d) *Determination of arrest status.* (1) When a CHRC on an individual

described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before the individual may serve as a flightcrew member. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a) of this section discloses an arrest for any disqualifying criminal offense listed in § 1544.229(d) without indicating a disposition, the aircraft operator must suspend the individual's flightcrew member privileges not later than 45 days after obtaining a CHRC, unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in § 1544.229(d), the flight crewmember is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (d)(1) and (d)(2) of this section for individuals whom it is using, or will use, as a flightcrew member. The aircraft operator may not make determinations for individuals described in § 1542.209(a) of this chapter.

(e) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny the individual the ability to serve as a flightcrew member, the aircraft operator must advise the individual that the FBI criminal record discloses information that would disqualify the individual from serving as a flightcrew member and provide the individual with a copy of the FBI record if the individual requests it.

(2) The aircraft operator must notify the individual that a final decision has been made to allow or deny the individual flightcrew member status.

(3) Immediately following the denial of flightcrew member status, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her flightcrew member status, and provide the

individual with a copy of the FBI record if he or she requests it.

(f) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to allowing the individual to serve as a flightcrew member.

(2) If no notification, as described in paragraph (f)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny the individual flightcrew member status.

(g) *Limits on the dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section. No person may disseminate the results of a CHRC to anyone other than—

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Others designated by TSA.

(h) *Recordkeeping.* (1) *Fingerprint application process.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(2) *Protection of records.* The records required by this section must be maintained by the aircraft operator in a manner that is acceptable to TSA that protects the confidentiality of the individual.

(3) *Duration.* The records identified in this section with regard to an individual must be made available upon request by TSA, and maintained by the aircraft operator until 180 days after the termination of the individual's privileges to perform flightcrew member duties with the aircraft operator. When files are no longer maintained, the aircraft operator must destroy the CHRC results.

(i) *Continuing responsibilities.* (1) Each flightcrew member identified in paragraph (a) of this section who has a disqualifying criminal offense must report the offense to the aircraft operator within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(2) If information becomes available to the aircraft operator indicating that a flightcrew member identified in paragraph (a) of this section has a possible conviction for any disqualifying criminal offense in § 1544.229 (d), the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed, the aircraft operator may not assign that individual to flightcrew duties in operations identified in paragraph (a).

(j) *Aircraft operator responsibility.* The aircraft operator must—(1) Designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the CHRC results.

(3) Designate an individual(s) at appropriate locations to receive notification from individuals of their intent to seek correction of their FBI criminal record.

(k) *Compliance date.* Each aircraft operator must comply with this section for each flightcrew member described in paragraph (a) of this section not later than December 6, 2002.

8. Add § 1544.237 to subpart C to read as follows:

§ 1544.237 Flight deck privileges.

(a) For each aircraft that has a door to the flight deck, each aircraft operator must restrict access to the flight deck as provided in its security program.

(b) This section does not restrict access for an FAA air carrier inspector, an authorized representative of the National Transportation Safety Board, or for an Agent of the United States Secret Service, under 14 CFR parts 121, 125, or 135. This section does not restrict access for a Federal Air Marshal under this part.

Issued in Washington, DC on February 15, 2002.

John W. Magaw,

Under Secretary of Transportation for Security.

[FR Doc. 02-4235 Filed 2-19-02; 10:09 am]

BILLING CODE 4910-62-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 011218303-1303-01; I.D. 110501B]

RIN 0648-AP70

Atlantic Highly Migratory Species; Commercial Shark Management Measures; Correction

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

ACTION: Fishing season notification; correction.

SUMMARY: NMFS published a document in the **Federal Register** of December 28, 2001, notifying eligible participants of the opening and closing dates for the Atlantic small coastal sharks, pelagic sharks, blue sharks, and porbeagle sharks fishing seasons. The document inadvertently specified dates that referred to the fishing seasons in 2001 instead of 2002. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz at 301-713-2347.

SUPPLEMENTARY INFORMATION:**Correction:**

In rule FR Doc. 01-31832, published on December 28, 2001, (66 FR 67118) the following correction is made. On page 67118, in the third column, correct the third paragraph of the **DATES** section to read: "The fishery opening for SCS, pelagic sharks, blue sharks, and porbeagle sharks is effective January 1, 2002, through June 30, 2002, unless otherwise modified or superseded through a publication in the **Federal Register**."

Dated: February 15, 2002.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-4276 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 67, No. 36

Friday, February 22, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-256-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes. This proposal would require an inspection to detect trapped water in the elevator sandwich structure, reprotction of the elevator, and corrective actions if necessary. This action is necessary to prevent damage caused by water ingress into the elevator, which could lead to debonding of the elevator skins and degradation of the initial protection, and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket 2001-NM-256-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-256-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as

attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action

must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 2001-NM-256-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket 2001-NM-256-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 and A321 series airplanes. The DGAC advises that in-service findings and a sampling inspection performed on elevators in the A320 fleet have revealed water ingress into the elevator. This condition, if not corrected, could result in debonding of the elevator skins and degradation of the initial protection, and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320-55-1024, dated January 13, 1999, which describes procedures for a thermographic inspection of the left and right elevators to detect trapped water and evaluate water damage. The service bulletin also describes procedures for repairing any damage, enlarging the existing drainholes in the lower skin panels of the elevator, and reprotecting the elevators. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001-062(B), dated February 21, 2001, to ensure the continued airworthiness of these airplanes in France.

Service Bulletin A320-55-1024 refers to Airbus Service Bulletin A320-55-1022, Revision 01, dated March 30, 2001, as an additional source of service information for enlarging the drainage holes in the elevator.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in Airbus Service Bulletin A320-55-1024, described previously, except as discussed below.

Difference Between Proposed Rule and Service Bulletin

Operators should note that, although Airbus Service Bulletin A320-55-1024 specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC (or its delegated agent) would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 91 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 52 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$283,920, or \$3,120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would

accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 2001-NM-256-AD.

Applicability: Model A320 and A321 series airplanes, certificated in any category; having elevator part and serial numbers listed in

Airbus Service Bulletin A320-55-1024, dated January 13, 1999; excluding those modified per Airbus Modification 23558.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage caused by water ingress into the elevator, which could lead to debonding of the elevator skins and degradation of the initial protection and consequent reduced structural integrity of the airplane, accomplish the following:

Inspection and Follow-On/Corrective Actions

(a) Within 18 months after the effective date of this AD, or within 10 years after the date of manufacture of the airplane, whichever occurs later: Perform a thermographic inspection to detect trapped water in the elevator sandwich structure, in accordance with Airbus Service Bulletin A320-55-1024, dated January 13, 1999.

(1) If no water is found: Before further flight, reprotect the elevator in accordance with the service bulletin.

(2) If any water is detected: Before further flight, evaluate the damage, perform applicable repair of any damaged area, and reprotect the elevator, in accordance with the service bulletin. If any damage is found for which the service bulletin specifies to contact Airbus for appropriate action: Before further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Note 2: Airbus Service Bulletin A320-55-1024 refers to Airbus Service Bulletin A320-55-1022, Revision 01, dated March 30, 2001, as an additional source of service information for enlarging the drainage holes in the elevator.

Spares

(b) As of the effective date of this AD, no person may install on any airplane an elevator having a part number and serial number listed in Airbus Service Bulletin A320-55-1024, dated January 13, 1999, unless the requirements of this AD have been accomplished on that elevator.

Alternative Methods of Compliance

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

International Branch, ANM-116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in French airworthiness directive 2001-062(B), dated February 21, 2001.

Issued in Renton, Washington, on February 12, 2002.

Vi L. Lipski,

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

[FR Doc. 02-4227 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-49-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL-600-2B19 series airplanes. This proposal would require a one-time inspection of the fuel-level sensing wires in the center fuel tank for damage and for clearance from the adjacent structure. This proposal would also require corrective action, if necessary. This action is necessary to detect and correct inadequate clearance between the fuel-level sensing wires in the center fuel tank and adjacent structures, which could lead to chafing of the wires, resulting in electrical arcing between the fuel-level sensing wires and the center fuel tank and a consequent fire or explosion in the center fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-49-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-49-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Luciano Castracane, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7535; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

- For each issue, state what specific change to the proposed AD is being requested.

- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-49-AD" The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket Number 2001-NM-49-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL-600-2B19 series airplanes. TCCA advises that during accomplishment of Bombardier Alert Service Bulletin 601R-28-036, chafing of the fuel-level sensing wires was observed in the center fuel tank of an in-service airplane. Inadequate clearance between the fuel-level sensing wires and adjacent structures could lead to chafing of the wires, which if not corrected, could result in electrical arcing between the fuel-level sensing wires and the center fuel tank and a consequent fire or explosion in the center fuel tank.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin 601R-28-042, Revision "A," dated January 12, 2001, which describes procedures for performing the following actions:

- A one-time general visual inspection of the fuel-level sensing wires in the center fuel tank for damage and for clearance from the adjacent structure;

- Adjustment of the clearance between the fuel-level sensing wires and adjacent structures;

- Replacement of damaged fuel-level sensing wires with new, improved fuel-level sensing wires; and

- Installation of clamps to maintain clearance between the fuel-level sensing wires and an adjacent pipe.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF-2000-31, dated October 4, 2000, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 160 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed inspection and clamping, and that the average labor rate is \$60 per work hour. Required parts would be provided at no charge by the manufacturer. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$96,000, or \$600 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would

accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 2001-NM-49-AD.

Applicability: Model CL-600-2B19 series airplanes, serial numbers 7003 through 7295 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct inadequate clearance between the fuel-level sensing wires in the center fuel tank and adjacent structures, which could lead to chafing of the wires, resulting in electrical arcing between the fuel-level sensing wires and the center fuel tank and a consequent fire or explosion in the center fuel tank, accomplish the following:

Inspection

(a) At the next "A" check but no later than 500 flight hours after the effective date of this AD: Perform a general visual inspection of the fuel-level sensing wires in the center fuel tank for damage and for clearance from adjacent structures, in accordance with Bombardier Alert Service Bulletin 601R-28-042, Revision "A", dated January 12, 2001. If the inspection reveals that the clearance between the fuel-level sensing wires and adjacent structures is less than the minimum clearance specified in the service bulletin, prior to further flight, adjust the clearance in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Inspection, adjustment of the clearance between the fuel-level sensing wires and adjacent structures, and replacement of damaged fuel-level sensing wires accomplished prior to the effective date of this AD, in accordance with Bombardier Alert Service Bulletin 601R-28-042, dated August 14, 2000, are considered acceptable for compliance with the applicable action specified in this AD.

Replacement

(b) If the inspection required by paragraph (a) of this AD reveals damage to the fuel-level sensing wires: Prior to further flight, replace the damaged fuel-level sensing wires having part number (P/N) 601R57137-1/01 with new, improved fuel-level sensing wires having P/N 601R57137-1/S01, in accordance with Bombardier Alert Service Bulletin 601R-28-042, Revision 'A,' dated January 12, 2001.

Installation of Cushioned Clamps

(c) Prior to further flight after accomplishing the actions required by paragraphs (a) and (b) of this AD, if applicable: Install cushioned clamps between pipe P/N 601R62261-55 and the fuel-level sensing wires, in accordance with Bombardier Alert Service Bulletin 601R-28-042, Revision 'A,' dated January 12, 2001.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF-2000-31, dated October 4, 2000.

Issued in Renton, Washington, on February 12, 2002.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-4226 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Part 1860**

[WO-350-1864-24 1A]

RIN 1004-AD50

Conveyances, Disclaimers and Correction Documents

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its regulations pertaining to recordable disclaimers of interest in land. The proposed rule would allow any entity claiming title to lands or an interest in lands to apply for a disclaimer of interest. It would also exempt States from the requirement that an applicant request a disclaimer within 12 years of when it knew or should have known of a claim by the United States to the lands or interests in lands in question.

DATES: Send your comments to reach BLM on or before April 23, 2002. BLM will not necessarily consider comments postmarked, or received, after the above date during its decision on the proposed rule.

ADDRESSES: You may mail comments to Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD50.

Personal or messenger delivery: You may also hand deliver comments to BLM at Room 401, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren, Lands and Realty Group 202/452-7779. Individuals who use a telecommunications device for the deaf (TDD) may contact Mr. Holdren through the Federal Information Relay Service at 1-800/877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Why Are We Proposing This Rule?
- IV. Section-By-Section Description
- V. Procedural Matters

I. Public Comment Procedures**A. Written Comments**

Written comments on the proposed rule should be as specific as possible, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (*see DATES*) or comments delivered to an address other than those listed above (*see ADDRESSES*).

B. May I Review Comments Others Submit?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under "**ADDRESSES: Personal or messenger delivery**" during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays.

Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor all requests for confidentiality on a case-by-case basis to the extent allowable by law. BLM 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.

II. Background

Section 315 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1745) authorizes the Secretary of the Interior to issue a disclaimer of interest or interests in lands in specified situations if the disclaimer will help remove a cloud on the title to such lands. The Secretary may issue a disclaimer, for example, if the Secretary has determined that a record interest of the United States in lands or interests in lands has terminated by operation of law or is otherwise invalid. (43 U.S.C. 1745(a)). The Secretary must consult with any affected Federal agency before issuing a disclaimer. A document of disclaimer has the same effect as a quitclaim deed from the United States (43 U.S.C. 1745(c)).

On September 6, 1984, BLM published final regulations (43 CFR subpart 1864) implementing the Secretary's authority to issue disclaimers. These regulations explain the objective of the recordable disclaimer, define terms used in this subpart, restrict applicants for a disclaimer to "any present owner of

record” (43 CFR 1864.1–1), and describe the application process, fee, and costs. The regulations also impose a filing deadline. The BLM must deny an application if “[m]ore than 12 years have elapsed since the owner knew or should have known of the alleged claim attributed to the United States.” (43 CFR 1864.1–3(a)(1)).

III. Why Are We Proposing This Rule?

The purpose of the recordable disclaimer statute is to create an administrative procedure for landowners and other claimants to remove clouds from their title to lands or interests in lands. This administrative procedure eliminates the need for judicial action or special legislation to remove clouds when the United States asserts no ownership or holds no valid interest in the property. (43 CFR 1864.0–2(a); S. Rep. No. 94–583, 94th Cong., 1st Session, pp. 50–51 (1975); and H.R. Report No. 94–1163, 94th Cong., 2nd Session, p. 11 (1976)).

BLM proposes to amend certain provisions of Subpart 1864 to:

(1) Further the purpose of section 315 of FLPMA (43 USC 1745) to remove clouds on title to lands or interests in lands by allowing any entity claiming title—not just present owners of record—to apply for a recordable disclaimer of interest in the absence of other governing law or regulations;

(2) Eliminate inconsistent administrative interpretations and application by eliminating the requirement that an applicant be a “present owner of record”; and

(3) Eliminate the application deadline in § 1864.1–3, as it applies to States. This change would conform the regulations to the Quiet Title Act (28 U.S.C. 2409a(g), which exempts States, in most instances, from the twelve-year statute of limitations under that act.

IV. Section-by-Section Description

Section 1864.1–1 Filing of Application

Current paragraph (a) provides, in part, that any “present owner of record may file an application to have a disclaimer of interest issued.” The phrase “present owner of record” is not defined in subpart 1864.

The FLPMA neither uses nor defines this phrase. In real property parlance, the term “present owner of record” usually refers to a property owner in whose name the title appears in the official records of a county recorder’s office or other office of record. Thus, it appears that the phrase “present owner of record” in § 1864.1–1 potentially could limit applications for a disclaimer of interest in a way that would unduly

restrict the Secretary’s broad authority under section 315 of FLPMA.

The BLM proposes to amend this paragraph by removing the phrase “present owner of record” and replacing it with “any entity claiming title to lands.” This change would clarify that it is the interest in the lands, rather than record ownership, that determines whether an entity is eligible to apply for a disclaimer of interest. This change would also broaden the class of potential applicants for disclaimers of interest, which could include, among others, a state, corporation, county, or a single individual.

Section 1864.1–3 Action on Application

Section 1864.1–3(a)(1) currently provides, in part, that the BLM will deny an application for a disclaimer if “[m]ore than 12 years have elapsed since the owner knew or should have known of the alleged claim attributed to the United States.” This deadline was modeled after the statute of limitations in the Quiet Title Act, which also includes a disclaimer provision. (28 U.S.C. 2409a(e)). The Quiet Title Act provides that “any civil action under this section, except for an action brought by a State, will be barred unless it is commenced within twelve years of the date upon which it accrued. Such action will be deemed to have accrued on the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States.” (28 U.S.C. 2409a(g)).

As enacted in 1972, the Quiet Title Act subjected all parties, including States, to the 12-year limitation period. In 1986, Congress amended the Quiet Title Act to exempt States from this 12-year statute of limitations. However, BLM has not updated 43 CFR 1864.1–3(a), issued in 1984, to reflect the 1986 change in the Quiet Title Act. Thus, the BLM is proposing to amend this section to be consistent with the Quiet Title Act.

The proposed rule would add language exempting States from the twelve-year time limit and allow States to apply for disclaimers of interest under FLPMA at any time. We are also proposing editorial changes to this section and bring up-to-date a reference to another section.

V. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

As described in the “Regulatory Flexibility Act” analysis below, the proposed rule affects applicants who want to remove either real or perceived

clouds on title to land or interests in land. Under the BLM’s implementation of the current rule, the application filing fee has been set at \$100, and this fee will not change as a result of this proposed rulemaking. In addition, the BLM may waive the filing fee if deemed to be in the public interest. BLM will continue to place the money it collects into the U.S. Treasury for use for various public purposes.

This proposed rule is, therefore, not a significant regulatory action and was not reviewed by the Office of Management and Budget under Executive Order 12866. The proposed rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This proposed regulation will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed regulations do not alter the budgetary effects of entitlements, grants, user fees, or loan programs of the right or obligations of their recipients; nor do they raise novel legal or policy issues.

Executive Order 12866, Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to such questions as the following:

1. Are the requirements in the proposed rule clearly stated?
2. Does the proposed rule contain technical language or jargon that interferes with its clarity?
3. Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the rule be easier to understand if it were divided into more (but shorter) sections?

(A “section” appears in bold type and is preceded by the symbol § and a numbered heading, for example, **§ 1864.1–3 Action on Application.**)

5. Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? How could this description be more helpful in making the proposed regulations easier to understand? Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Director (630), Bureau of Land Management, Administrative

Records, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD50.

National Environmental Policy Act

BLM has determined that this proposed rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, under 516 Departmental Manual (DM), Chapter 2, Appendix I, Item 1.10, and has concluded that the proposed rule does not meet any of the ten exceptions to the categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Under 516 DM, Chapter 2, Appendix 1, § 1.10, this proposed rule qualifies as a categorical exclusion because it is procedural in nature, therefore its environmental effect is too broad, speculative or conjectural to analyze.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The proposed changes to the current rules would have no impact on an applicant's costs for filing or processing an application for a disclaimer of interest which currently consist of a one time filing fee of \$100 and fact-specific processing costs with provisions for a fee waiver.

The changes BLM proposes are intended to clarify existing requirements and qualifications. These changes would positively affect all applicants, whether small entities or not.

Unfunded Mandates Reform Act

BLM has determined that this proposed rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. section 1532, because it will not result in State, local and tribal government, or private sector expenditures of \$100 million or more in any one year. This proposed rule will not significantly or uniquely affect small governments.

Executive Order 12630, Government Action and Interference With Constitutionally Protected Property Rights (Takings)

In accordance with Executive Order 12630, BLM has found that the rule does not have significant takings implications. No takings of personal or real property will occur as a result of this rule. The rule broadens the opportunity for the United States to issue disclaimers of interest in land, thereby making it easier to remove clouds on title to certain lands. A takings implication analysis is not required.

Executive Order 13132, Federalism

In accordance with Executive Order 13132, BLM finds that the rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact assessment. The rule does not have substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. The rule does not preempt State law. The rule broadens the opportunity for States and other entities to apply for a disclaimer of interest in land, thereby removing clouds on the title to certain lands.

Executive Order 12988, Civil Justice Reform

The Department of the Interior has determined that this proposed rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, BLM finds that this proposed rule does not propose significant changes to BLM policy and that Tribal Governments will not be unduly affected by this proposed rule.

Executive Order 13211, Action Concerning Regulations that Significantly Effect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, BLM finds that this proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The distribution of or use of energy will not be unduly affected by this proposed rule.

Paperwork Reduction Act

BLM has determined these proposed regulations do not contain any new information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Author

This rule was written by Jeff Holdren, BLM Lands and Realty Deputy Group Manager, assisted by Cynthia Ellis of the BLM Regulatory Affairs Group and the Office of the Solicitor.

List of Subjects at 43 CFR Part 1860

Administrative practice and procedure, Public lands.

Dated: February 6, 2002.

J. Steven Griles,

Deputy Secretary of the Interior.

Accordingly, for the reasons stated in the preamble and under the authority of the FLPMA (43 U.S.C. 1740), BLM proposes to amend part 1860, subpart 1864 of title 43 of the Code of Federal Regulations as set forth below:

PART 1860—CONVEYANCES, DISCLAIMERS, AND CORRECTIONS DOCUMENTS

Subpart 1864—Recordable Disclaimers of Interest in Land

1. The authority citation for subpart 1864 is added to read as follows:

Authority: 43 U.S.C. 1201, 1740, and 1745.

2. Revise 1864.1-1 to read as follows:

§ 1864.1-1 Filing of application.

(a) Any entity claiming title to lands may file an application to have a disclaimer of interest issued if there is reason to believe that a cloud exists on the title to the lands as a result of a claim or potential claim by the United States and that such lands are not subject to any valid claim of the United States.

(b) Before you actually file an application you should meet with BLM to determine if the regulations in this subpart apply to you.

(c) You must file your application for a disclaimer of interest with the proper BLM office as listed in § 1821.10 of this title.

3. Revise § 1864.1-3 to read as follows:

§ 1864.1-3 Action on Application.

(a) BLM will not approve an application, except for an application filed by a state, if more than 12 years have elapsed since the applicant knew, or should have known, of the claim by the United States.

(b) BLM will disapprove an application if:

(1) The application pertains to a security interest or water rights; or,

(2) The application pertains to trust or restricted Indian lands.

(c) BLM will, if the application meets the requirements for further processing, determine the amount of deposit we need to cover the administrative costs of processing the application and issuing a disclaimer.

(d) The applicant must submit a deposit in the amount BLM determines.

(e) If the application includes what may be omitted lands, BLM will process it in accordance with the applicable provisions of part 9180 of this title. If BLM determines the application involves omitted lands, BLM will notify the applicant in writing.

[FR Doc. 02-4137 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-84-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-297; MM Docket Nos. 02-23, 02-24, 02-25, 02-26; RM-10359-10362]

Radio Broadcasting Services; Keeseville, New York, Hartford and White River Junction, Vermont; Harrodsburg and Keene, Kentucky; Beverly Hills and Spring Hill, Florida; Bridgeton and Elmer, New Jersey

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment in four separate docketed proceedings in a multiple docket *Notice of Proposed Rule Making*. (1) At the request of Great Northern Radio, LLC and Family Broadcasting, Inc., the Commission proposes to reallocate Channel 282C3 from Hartford, Vermont to Keeseville, New York and Channel 237A from White River Junction to Hartford, and modify the licenses of Stations WSSH(FM) and WWOD(FM) to reflect the changes. Coordinates for Channel 237A at Hartford are 43-43-45 NL and 72-22-22 WL. Coordinates for Channel 282C3 at Keeseville are 44-31-31 NL and 73-31-07 WL. Channel 237A can be allotted at Hartford at a site 8.1 kilometers (5.0 miles) north of the community. Channel 282C3 can be allotted at Keeseville at a site 3.8 kilometers (2.3 miles) northwest of the community. These proposals are within 320 kilometers of the Canadian border. Therefore, Canadian

concurrence has been requested. (2) At the request of Mortenson Broadcasting Company of Central Kentucky, LLC, the Commission proposes to substitute Channel 256A for Channel 257C3 at Harrodsburg, and reallocate Channel 256A from Harrodsburg, to Keene, Kentucky, as the community's first local transmission service, and modify the license of Station WJMM-FM to reflect the changes. Coordinates for Channel 256A at Keene are 37-56-36 NL and 84-38-31 WL. Channel 256A can be allotted at Keene, Kentucky without a site restriction. See Supplementary Information.

DATES: Comments are due on April 1, 2002, and reply comments are due on April 16, 2002.

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

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, parties interested in MM Docket 02-23 should serve petitioners, Great Northern Radio, LLC and Family Broadcasting, Inc., or its counsel or consultant, as follows: David G. O'Neill, Jonathan E. Allen, Manatt, Phelps & Phillips, 1501 M Street, NW., Suite 700, Washington, DC 20005-1702. Parties interested in MM Docket No. 02-24 should serve petitioner Mortenson Broadcasting Company of Central Kentucky, LLC, or its counsel or consultant, as follows: Jerrold Miller, Miller & Miller, P.C., P.O. Box 33003, Washington, DC 20033. Parties interested in MM Docket No. 02-25 should serve petitioner WGUL-FM, Inc., or its counsel or consultant, as follows: James A. Koerner, Koerner & Olender, P.C., 5809 Nicholson Lane, Suite 124, North Bethesda, MD 20852. Parties interested in MM Docket No. 02-26 should serve petitioner, Cohanzick Broadcasting Corp., or its counsel or consultant, as follows: Marnie Sarver, Wiley Rein & Fielding, LLP, 1776 K Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 02-23, 02-24, 02-25, 02-26, adopted January 30, 2002, and released February 8, 2002. 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.

(3) At the request of WGUL-FM, Inc., the Commission proposes to reallocate Channel 292C3 from Beverly Hills, Florida, to Spring Hill, Florida, as its first local transmission service, and modify Station WGUL-FM's license to reflect the changes. Coordinates for Channel 292C3 at Spring Hill, Florida are 28-36-00 NL and 82-33-45 WL. Channel 292C3 can be allotted at Spring Hill at a site 12.0 kilometers (7.5 miles) northwest of the community. (4) At the request of Cohanzick Broadcasting Corp., we propose to reallocate Channel 299B from Bridgeton to Elmer, New Jersey, as that community's first local transmission service, and modify the license of Station WSNJ-FM to reflect the changes. Coordinates for Channel 299B at Elmer are 39-27-32 NL and 75-12-12 WL. Channel 299B can be allotted at Elmer, New Jersey at Cohanzick's current transmitter site 15.4 kilometers (9.6 miles) south of the community.

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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 282A3 and adding Channel 237A at Hartford, and removing White River Junction, Channel 237A.

3. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Keeseville, Channel 282C3.

4. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Harrodsburg, Channel 257C3, and adding Keene, Channel 256A.

5. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Beverly Hills, Channel 292C3, and adding Spring Hill, Channel 292C3.

6. Section 73.202(b), the Table of FM Allotments under New Jersey, is amended by removing Bridgeton, Channel 299B, and adding Elmer, Channel 299B.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4220 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 177

[Docket No. RSPA-01-10533 (HM-218A)]

RIN 2137-AD44

Transportation of Hazardous Materials; Unloading of Intermodal (IM) Portable Tanks on Transport Vehicles

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Materials Regulations to permit, for an interim period and subject to certain unloading conditions, the unloading of intermodal (IM) portable tanks transporting certain liquid hazardous materials that are not equipped with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. Permitting such unloading for an interim period would afford operators time to bring the IM portable tanks into conformance with the regulations.

DATES: Comments must be received by April 8, 2002.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh St., SW., Room PL 401, Washington, DC 20590-0001. Comments must identify Docket Number RSPA-01-10533 (HM-218A). If you wish to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. You may also submit and review all comments by accessing the Dockets Management System's website at <http://dms.dot.gov>. The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. You may view public dockets between the hours of 9 a.m. and 5 p.m., Monday through Friday, except on federal holidays.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S.

Department of Transportation, 400 Seventh St., SW., Washington, DC 20590-0001, telephone (202) 366-8553.

SUPPLEMENTARY INFORMATION:

I. Background

In this NPRM, the Research and Special Programs Administration (RSPA) (hereafter, "we" means RSPA) addresses the appeal of a denial of a petition for reconsideration and a petition for rulemaking. Both of these actions are regarding the provisions in § 177.834(o) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), permitting an IM portable tank to be unloaded while it remains on a transport vehicle.

On July 10, 1998, we published a final rule under Docket RSPA-97-2905 (HM-166Y; 63 FR 37454) amending the HMR by incorporating miscellaneous changes based on petitions for rulemaking and our own initiative. The effective date of the final rule was October 1, 1998. Among other provisions, the final rule allows an IM portable tank transporting a liquid hazardous material that is flammable, pyrophoric, oxidizing, or toxic, to be unloaded while remaining on a transport vehicle with the power unit attached, provided the outlet requirements in 49 CFR 178.345-11 and the attendance requirements in 49 CFR 177.834(i) are met. Section 178.345-11 includes requirements for loading/unloading outlets on cargo tanks to be equipped with self-closing systems with remote means of closure capable of thermal activation at temperatures not exceeding 250°F. Section 177.834(i) includes requirements for ensuring that cargo tanks are attended by a qualified person during loading and unloading.

We received three petitions for reconsideration to the July 10, 1998, final rule. The Dangerous Goods Advisory Council (DGAC), the Tank Container Association (TCA), and Merck & Co., Inc. requested a 2½ year extension of the compliance date, stating it was not feasible to equip existing IM portable tanks with fusible links by October 1, 1998. On October 30, 1998, we published a final rule (HM-166Y; 63 FR 58323) denying the three petitions for reconsideration to the July 10, 1998, final rule. The denial was based on our belief that unloading an IM portable tank in the same manner as a cargo tank, but without the same outlet requirements, poses increased safety risks in a fire situation when an operator is not able to manually activate the closure.

After publication of the October 30, 1998, final rule, we received an appeal of the denial of the petitions for reconsideration from TCA, reiterating

the request for extending the compliance date for 2½ years. We also received a petition for rulemaking from the DGAC, requesting we adopt operating conditions for unloading an IM portable tank with no thermal means of remote activation of the internal self-closing stop-valves installed on the bottom discharge outlets, when it is on a transport vehicle. DGAC suggested these unloading operations be permitted only at facilities:

1. Equipped with fire suppression systems as required by the Department of Labor's Occupational Safety and Health Administration (OSHA) regulations codified at 29 Code of Federal Regulations (CFR) 1910.106;

2. Providing static electricity protection and bonding as required by 29 CFR 1910.106;

3. Implementing emergency response plans and procedures in accordance with OSHA regulations codified at 29 CFR 1910.120;

4. Conforming to the OSHA process safety management standards, codified at 29 CFR 1910.119, the Environmental Protection Agency (EPA) risk management regulations, codified at 40 CFR Part 68, or an equivalent program; and

5. Prohibiting public access to the unloading area.

In addition, the operator would be required to comply with the attendance requirements in § 177.834(i) of the HMR.

DGAC stated its recommended operating restrictions would ensure an equivalent level of safety to the outlet requirements in § 178.345-11. DGAC suggested these operating restrictions could be adopted on an interim basis to provide sufficient time for operators to equip their IM portable tanks with the outlet requirement. In a subsequent submission, DGAC requested a three-year extension of the compliance date to assure sufficient time for operators to equip all affected IM portable tanks.

The intent of the unloading provision in the July 10, 1998, final rule was to provide regulatory relief for operators of IM portable tanks equipped with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. We continue to believe if a portable tank is to be unloaded in the same manner as a cargo tank, it should be equipped with the same emergency shutdown devices required for cargo tanks. However, after re-examining the issues raised by DGAC and TCA, we are proposing to permit, for an interim period, an IM portable tank not currently equipped with a thermal means of remote activation of the

internal self-closing stop-valve fitted on bottom discharge outlets, to be unloaded while remaining on a transport vehicle under certain conditions. The conditions, as proposed later in this preamble, would provide an acceptable level of safety during an interim period by reducing the possibility of fire and release of hazardous materials during the unloading of IM portable tanks. Permitting such unloading for a temporary period affords operators additional time to equip IM portable tanks in accordance with the outlet requirement, if they want to be able to unload these tanks in the same manner as cargo tanks.

In this NPRM, we are proposing to permit such unloading operations until October 1, 2003. This date provides manufacturers, lessors, and users of the affected IM portable tanks a total of five years from the October 1, 1998 effective date of the July 10, 1998 final rule to equip the tanks with a thermal means for remotely activating bottom discharge outlets. Since these tanks are periodically inspected every five years, it also provides the opportunity for the retrofit to be done at the time of the periodic inspection, thus minimizing cost impacts. Many of these tanks should already be so equipped. On and after October 1, 2003, an IM portable tank containing a hazardous material that is flammable, pyrophoric, oxidizing or toxic, could not be unloaded while remaining on a transport vehicle with the power unit attached unless it fully conforms to the outlet requirements in § 178.275(d)(3).

We are also proposing to change the outlet section reference for IM portable tanks from § 178.345–11 to § 178.275(d)(3). In a final rule published June 21, 2001 (RSPA–2000–7702, HM–215D; FR 66 33316), we added § 178.275(d)(3) to address the requirements for equipping UN portable tanks with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. Although the two sections contain the same requirements, the addition of § 178.275(d)(3) into the HMR now makes it a more appropriate reference because it is specific to IM portable tank requirements.

Based on the above discussion, we are proposing to revise § 177.834(o) to permit, until October 1, 2003, the unloading of an IM portable tank not meeting the outlet requirements in § 178.275(d)(3), provided certain unloading conditions are met. The shipper and the carrier would share responsibility for verifying that the consignee's facility meets certain

conditions and that the following requirements are met:

(1) The facility at which the IM portable tank is to be unloaded must have systems in place that conform to applicable OSHA fire suppression requirements in 29 CFR 1910.106(e); the emergency shutdown requirements in 29 CFR 1910.119(f); and OSHA's and EPA's emergency response planning requirements in 29 CFR 1910.119(f) and 40 CFR part 68, respectively; or equivalent or more stringent non-federal requirements; and an emergency discharge control procedure in place applicable to unloading operations, including instructions for handling emergencies that may occur during the unloading operation.

(2) Public access to the unloading area must be controlled in a manner ensuring that public access is denied during unloading.

(3) The attendance requirements in § 177.834(o) must be met.

(4) Prior to unloading, the operator of the vehicle on which the IM portable tank is transported must ascertain the conditions in proposed paragraph (o) are met.

(5) Persons performing unloading functions must be trained in handling emergencies that may occur during the unloading operation.

In § 173.32, as amended under HM–215D, we are proposing to revise paragraph (g)(1) by removing the reference to § 177.834(i)(2). The referenced section, which addresses attendance and unloading requirements, would no longer be necessary with the adoption of proposed § 173.32(h)(3), which references a more appropriate section for IM portable tanks (§ 177.834(o)). Proposed paragraph (h)(3) would alert shippers of their shared responsibility for ensuring that IM portable tanks not conforming to the requirements in § 178.275(d)(3) are unloaded only at facilities conforming to the applicable OSHA and EPA requirements, or are equipped to remove the portable tank from the transport vehicle prior to unloading.

Finally, we are proposing to further revise § 177.834(o) to clarify the requirement for a thermal means of remote activation of bottom discharge outlets applies only to liquid hazardous materials that are flammable, pyrophoric, oxidizing or toxic. In this way we are limiting the applicability to materials posing a risk of fire or acute health and environmental risks. This clarification proposal is consistent with the current requirements located in §§ 178.345–11 and 178.275.

II. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The proposed rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. The costs and benefits of this proposed rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or a regulatory evaluation. The provisions of this proposed rule respond to an industry petition and would impose little or no additional costs on the affected companies. The proposed alternative interim provisions provide the industry additional time to come into compliance with existing regulatory requirements for those IM portable tanks intended to be unloaded in the same manner as cargo tanks. There is no requirement in the current regulations, and we are not proposing one in this NPRM, for an IM portable tank to conform to the outlet requirements if it is not intended to be unloaded while it remains on a transport vehicle with the power unit attached. Any adverse safety impacts from the regulatory relief provided by this proposal would be minimized by conformance with the interim provisions proposed herein.

B. Executive Order 13132

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule would preempt state, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Federal hazardous material transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) preempting state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject items (2) and (5) above and would preempt state, local, and Indian tribe requirements not meeting the "substantively the same" standard.

Federal hazardous materials transportation law provides at § 5125(b)(2) that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA proposes the effective date of federal preemption will be 180 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13175

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines a rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule applies to manufacturers, operators, lessors and users of IM portable tanks, some of whom are small entities. This proposed rule would benefit such persons by further relaxing an existing requirement for an interim period. Therefore, I certify this rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. This proposed rule does not propose any new information collection burdens. The information collection associated with information specified in § 177.834(o) of this proposed rule is currently required by other Federal regulations. In the proposed § 177.834(o)(2)(i) and (o)(2)(iii), the information collection requirements pertaining to fire suppression and emergency shutdown are currently required by the Department of Labor's OSHA. Finally, in the proposed § 177.834(o)(2)(iv), the emergency response planning requirements are currently required by the Environmental Protection Agency. Based on this discussion, this proposed rule does not require any additional incremental burden hours.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either state, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. We developed an assessment to determine the effects of this proposed revision on the environment and whether a more comprehensive environmental impact statement may be required. Our findings conclude there are no significant environmental impacts associated with this proposed rule. Allowing the unloading of IM portable tanks for an interim period, provided the unloading conditions proposed in this rulemaking

are met, permits operators to avoid the potential for environmental damage or contamination and allows manufacturers, lessors and users the needed time to properly equip the IM portable tanks. For interested parties, an environmental assessment is available in the public docket.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Chapter I as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 173.32, paragraph (g)(1) would be revised and a new paragraph (h)(3) would be added to read as follows:

§ 173.32 Requirements for the use of portable tanks.

* * * * *

(g) * * *

(1) A portable tank containing a hazardous material may not be loaded on to a highway or rail transport vehicle unless loaded entirely within the horizontal outline of the vehicle, without overhang or projection of any part of the tank assembly.

* * * * *

(h) * * *

(3) No person may offer an IM portable tank transporting a liquid hazardous material that is flammable, pyrophoric, oxidizing, or toxic, as defined in part 173, to a facility for unloading while it remains on a transport vehicle with the power unit attached, unless—

(i) The tank outlets conform to § 178.275(d)(3) of this subchapter;

(ii) The facility at which the IM portable tank is to be unloaded conforms to the requirements in § 177.834(o) of this subchapter; or

(iii) The facility at which the IM portable tank is to be unloaded is equipped to remove an IM portable tank

from a transport vehicle prior to unloading.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

4. The authority citation for part 177 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

5. In § 177.834, paragraph (o) would be revised to read as follows:

§ 177.834 General requirements.

* * * * *

(o) *Unloading of IM portable tanks.* No person may unload an IM portable tank while it remains on a transport vehicle with the motive power unit attached except under the following conditions:

(1) The unloading operation must be attended by a qualified person in accordance with the requirements in

paragraph (i) of this section. The person performing unloading functions must be trained in handling emergencies that may occur during the unloading operation.

(2) Prior to unloading, the operator of the vehicle on which the IM portable tank is transported must ascertain the conditions of this paragraph (o) are met.

(3) An IM portable tank containing a liquid hazardous material that is flammable, pyrophoric, oxidizing, or toxic, as defined in part 173 of this subchapter, must conform to the outlet requirements in § 178.275(d)(3) of this subchapter; or, until October 1, 2003, be unloaded only at a facility conforming to the following—

(i) The applicable fire suppression requirements in 29 CFR 1910.106(e), (f), (g), (h), and (i);

(ii) The emergency shutdown requirements in 29 CFR 1910.119(f), 1910.120(q) and 1910.38(a);

(iii) The emergency response planning requirements in 29 CFR Part 1910, 40 CFR Part 68, or equivalent or more stringent non-federal requirements, and an emergency discharge control procedure applicable to unloading operations including instructions on handling emergencies that may occur during the unloading operation; and

(iv) Public access to the unloading area must be controlled in a manner ensuring no public access during unloading.

Issued in Washington, DC on February 19, 2002, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–4284 Filed 2–21–02; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register

Vol. 67, No. 36

Friday, February 22, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-256-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes. This proposal would require an inspection to detect trapped water in the elevator sandwich structure, reProtection of the elevator, and corrective actions if necessary. This action is necessary to prevent damage caused by water ingress into the elevator, which could lead to debonding of the elevator skins and degradation of the initial protection, and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket 2001-NM-256-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-256-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as

attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action

must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 2001-NM-256-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket 2001-NM-256-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 and A321 series airplanes. The DGAC advises that in-service findings and a sampling inspection performed on elevators in the A320 fleet have revealed water ingress into the elevator. This condition, if not corrected, could result in debonding of the elevator skins and degradation of the initial protection, and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320-55-1024, dated January 13, 1999, which describes procedures for a thermographic inspection of the left and right elevators to detect trapped water and evaluate water damage. The service bulletin also describes procedures for repairing any damage, enlarging the existing drainholes in the lower skin panels of the elevator, and reprotecting the elevators. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001-062(B), dated February 21, 2001, to ensure the continued airworthiness of these airplanes in France.

Service Bulletin A320-55-1024 refers to Airbus Service Bulletin A320-55-1022, Revision 01, dated March 30, 2001, as an additional source of service information for enlarging the drainage holes in the elevator.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in Airbus Service Bulletin A320-55-1024, described previously, except as discussed below.

Difference Between Proposed Rule and Service Bulletin

Operators should note that, although Airbus Service Bulletin A320-55-1024 specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC (or its delegated agent) would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 91 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 52 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$283,920, or \$3,120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would

accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 2001-NM-256-AD.

Applicability: Model A320 and A321 series airplanes, certificated in any category; having elevator part and serial numbers listed in

Airbus Service Bulletin A320-55-1024, dated January 13, 1999; excluding those modified per Airbus Modification 23558.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage caused by water ingress into the elevator, which could lead to debonding of the elevator skins and degradation of the initial protection and consequent reduced structural integrity of the airplane, accomplish the following:

Inspection and Follow-On/Corrective Actions

(a) Within 18 months after the effective date of this AD, or within 10 years after the date of manufacture of the airplane, whichever occurs later: Perform a thermographic inspection to detect trapped water in the elevator sandwich structure, in accordance with Airbus Service Bulletin A320-55-1024, dated January 13, 1999.

(1) If no water is found: Before further flight, reprotect the elevator in accordance with the service bulletin.

(2) If any water is detected: Before further flight, evaluate the damage, perform applicable repair of any damaged area, and reprotect the elevator, in accordance with the service bulletin. If any damage is found for which the service bulletin specifies to contact Airbus for appropriate action: Before further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Note 2: Airbus Service Bulletin A320-55-1024 refers to Airbus Service Bulletin A320-55-1022, Revision 01, dated March 30, 2001, as an additional source of service information for enlarging the drainage holes in the elevator.

Spares

(b) As of the effective date of this AD, no person may install on any airplane an elevator having a part number and serial number listed in Airbus Service Bulletin A320-55-1024, dated January 13, 1999, unless the requirements of this AD have been accomplished on that elevator.

Alternative Methods of Compliance

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

International Branch, ANM-116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in French airworthiness directive 2001-062(B), dated February 21, 2001.

Issued in Renton, Washington, on February 12, 2002.

Vi L. Lipski,

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

[FR Doc. 02-4227 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-49-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL-600-2B19 series airplanes. This proposal would require a one-time inspection of the fuel-level sensing wires in the center fuel tank for damage and for clearance from the adjacent structure. This proposal would also require corrective action, if necessary. This action is necessary to detect and correct inadequate clearance between the fuel-level sensing wires in the center fuel tank and adjacent structures, which could lead to chafing of the wires, resulting in electrical arcing between the fuel-level sensing wires and the center fuel tank and a consequent fire or explosion in the center fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-49-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-49-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Luciano Castracane, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7535; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

- For each issue, state what specific change to the proposed AD is being requested.

- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-49-AD" The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket Number 2001-NM-49-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL-600-2B19 series airplanes. TCCA advises that during accomplishment of Bombardier Alert Service Bulletin 601R-28-036, chafing of the fuel-level sensing wires was observed in the center fuel tank of an in-service airplane. Inadequate clearance between the fuel-level sensing wires and adjacent structures could lead to chafing of the wires, which if not corrected, could result in electrical arcing between the fuel-level sensing wires and the center fuel tank and a consequent fire or explosion in the center fuel tank.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin 601R-28-042, Revision "A," dated January 12, 2001, which describes procedures for performing the following actions:

- A one-time general visual inspection of the fuel-level sensing wires in the center fuel tank for damage and for clearance from the adjacent structure;

- Adjustment of the clearance between the fuel-level sensing wires and adjacent structures;

- Replacement of damaged fuel-level sensing wires with new, improved fuel-level sensing wires; and

- Installation of clamps to maintain clearance between the fuel-level sensing wires and an adjacent pipe.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF-2000-31, dated October 4, 2000, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 160 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed inspection and clamping, and that the average labor rate is \$60 per work hour. Required parts would be provided at no charge by the manufacturer. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$96,000, or \$600 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would

accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 2001-NM-49-AD.

Applicability: Model CL-600-2B19 series airplanes, serial numbers 7003 through 7295 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct inadequate clearance between the fuel-level sensing wires in the center fuel tank and adjacent structures, which could lead to chafing of the wires, resulting in electrical arcing between the fuel-level sensing wires and the center fuel tank and a consequent fire or explosion in the center fuel tank, accomplish the following:

Inspection

(a) At the next "A" check but no later than 500 flight hours after the effective date of this AD: Perform a general visual inspection of the fuel-level sensing wires in the center fuel tank for damage and for clearance from adjacent structures, in accordance with Bombardier Alert Service Bulletin 601R-28-042, Revision "A", dated January 12, 2001. If the inspection reveals that the clearance between the fuel-level sensing wires and adjacent structures is less than the minimum clearance specified in the service bulletin, prior to further flight, adjust the clearance in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 3: Inspection, adjustment of the clearance between the fuel-level sensing wires and adjacent structures, and replacement of damaged fuel-level sensing wires accomplished prior to the effective date of this AD, in accordance with Bombardier Alert Service Bulletin 601R-28-042, dated August 14, 2000, are considered acceptable for compliance with the applicable action specified in this AD.

Replacement

(b) If the inspection required by paragraph (a) of this AD reveals damage to the fuel-level sensing wires: Prior to further flight, replace the damaged fuel-level sensing wires having part number (P/N) 601R57137-1/01 with new, improved fuel-level sensing wires having P/N 601R57137-1/S01, in accordance with Bombardier Alert Service Bulletin 601R-28-042, Revision 'A,' dated January 12, 2001.

Installation of Cushioned Clamps

(c) Prior to further flight after accomplishing the actions required by paragraphs (a) and (b) of this AD, if applicable: Install cushioned clamps between pipe P/N 601R62261-55 and the fuel-level sensing wires, in accordance with Bombardier Alert Service Bulletin 601R-28-042, Revision 'A,' dated January 12, 2001.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF-2000-31, dated October 4, 2000.

Issued in Renton, Washington, on February 12, 2002.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-4226 Filed 2-21-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Part 1860**

[WO-350-1864-24 1A]

RIN 1004-AD50

Conveyances, Disclaimers and Correction Documents

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its regulations pertaining to recordable disclaimers of interest in land. The proposed rule would allow any entity claiming title to lands or an interest in lands to apply for a disclaimer of interest. It would also exempt States from the requirement that an applicant request a disclaimer within 12 years of when it knew or should have known of a claim by the United States to the lands or interests in lands in question.

DATES: Send your comments to reach BLM on or before April 23, 2002. BLM will not necessarily consider comments postmarked, or received, after the above date during its decision on the proposed rule.

ADDRESSES: You may mail comments to Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD50.

Personal or messenger delivery: You may also hand deliver comments to BLM at Room 401, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren, Lands and Realty Group 202/452-7779. Individuals who use a telecommunications device for the deaf (TDD) may contact Mr. Holdren through the Federal Information Relay Service at 1-800/877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Why Are We Proposing This Rule?
- IV. Section-By-Section Description
- V. Procedural Matters

I. Public Comment Procedures**A. Written Comments**

Written comments on the proposed rule should be as specific as possible, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (*see DATES*) or comments delivered to an address other than those listed above (*see ADDRESSES*).

B. May I Review Comments Others Submit?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under "**ADDRESSES: Personal or messenger delivery**" during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays.

Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor all requests for confidentiality on a case-by-case basis to the extent allowable by law. BLM 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.

II. Background

Section 315 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1745) authorizes the Secretary of the Interior to issue a disclaimer of interest or interests in lands in specified situations if the disclaimer will help remove a cloud on the title to such lands. The Secretary may issue a disclaimer, for example, if the Secretary has determined that a record interest of the United States in lands or interests in lands has terminated by operation of law or is otherwise invalid. (43 U.S.C. 1745(a)). The Secretary must consult with any affected Federal agency before issuing a disclaimer. A document of disclaimer has the same effect as a quitclaim deed from the United States (43 U.S.C. 1745(c)).

On September 6, 1984, BLM published final regulations (43 CFR subpart 1864) implementing the Secretary's authority to issue disclaimers. These regulations explain the objective of the recordable disclaimer, define terms used in this subpart, restrict applicants for a disclaimer to "any present owner of

record” (43 CFR 1864.1–1), and describe the application process, fee, and costs. The regulations also impose a filing deadline. The BLM must deny an application if “[m]ore than 12 years have elapsed since the owner knew or should have known of the alleged claim attributed to the United States.” (43 CFR 1864.1–3(a)(1)).

III. Why Are We Proposing This Rule?

The purpose of the recordable disclaimer statute is to create an administrative procedure for landowners and other claimants to remove clouds from their title to lands or interests in lands. This administrative procedure eliminates the need for judicial action or special legislation to remove clouds when the United States asserts no ownership or holds no valid interest in the property. (43 CFR 1864.0–2(a); S. Rep. No. 94–583, 94th Cong., 1st Session, pp. 50–51 (1975); and H.R. Report No. 94–1163, 94th Cong., 2nd Session, p. 11 (1976)).

BLM proposes to amend certain provisions of Subpart 1864 to:

(1) Further the purpose of section 315 of FLPMA (43 USC 1745) to remove clouds on title to lands or interests in lands by allowing any entity claiming title—not just present owners of record—to apply for a recordable disclaimer of interest in the absence of other governing law or regulations;

(2) Eliminate inconsistent administrative interpretations and application by eliminating the requirement that an applicant be a “present owner of record”; and

(3) Eliminate the application deadline in § 1864.1–3, as it applies to States. This change would conform the regulations to the Quiet Title Act (28 U.S.C. 2409a(g), which exempts States, in most instances, from the twelve-year statute of limitations under that act.

IV. Section-by-Section Description

Section 1864.1–1 Filing of Application

Current paragraph (a) provides, in part, that any “present owner of record may file an application to have a disclaimer of interest issued.” The phrase “present owner of record” is not defined in subpart 1864.

The FLPMA neither uses nor defines this phrase. In real property parlance, the term “present owner of record” usually refers to a property owner in whose name the title appears in the official records of a county recorder’s office or other office of record. Thus, it appears that the phrase “present owner of record” in § 1864.1–1 potentially could limit applications for a disclaimer of interest in a way that would unduly

restrict the Secretary’s broad authority under section 315 of FLPMA.

The BLM proposes to amend this paragraph by removing the phrase “present owner of record” and replacing it with “any entity claiming title to lands.” This change would clarify that it is the interest in the lands, rather than record ownership, that determines whether an entity is eligible to apply for a disclaimer of interest. This change would also broaden the class of potential applicants for disclaimers of interest, which could include, among others, a state, corporation, county, or a single individual.

Section 1864.1–3 Action on Application

Section 1864.1–3(a)(1) currently provides, in part, that the BLM will deny an application for a disclaimer if “[m]ore than 12 years have elapsed since the owner knew or should have known of the alleged claim attributed to the United States.” This deadline was modeled after the statute of limitations in the Quiet Title Act, which also includes a disclaimer provision. (28 U.S.C. 2409a(e)). The Quiet Title Act provides that “any civil action under this section, except for an action brought by a State, will be barred unless it is commenced within twelve years of the date upon which it accrued. Such action will be deemed to have accrued on the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States.” (28 U.S.C. 2409a(g)).

As enacted in 1972, the Quiet Title Act subjected all parties, including States, to the 12-year limitation period. In 1986, Congress amended the Quiet Title Act to exempt States from this 12-year statute of limitations. However, BLM has not updated 43 CFR 1864.1–3(a), issued in 1984, to reflect the 1986 change in the Quiet Title Act. Thus, the BLM is proposing to amend this section to be consistent with the Quiet Title Act.

The proposed rule would add language exempting States from the twelve-year time limit and allow States to apply for disclaimers of interest under FLPMA at any time. We are also proposing editorial changes to this section and bring up-to-date a reference to another section.

V. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

As described in the “Regulatory Flexibility Act” analysis below, the proposed rule affects applicants who want to remove either real or perceived

clouds on title to land or interests in land. Under the BLM’s implementation of the current rule, the application filing fee has been set at \$100, and this fee will not change as a result of this proposed rulemaking. In addition, the BLM may waive the filing fee if deemed to be in the public interest. BLM will continue to place the money it collects into the U.S. Treasury for use for various public purposes.

This proposed rule is, therefore, not a significant regulatory action and was not reviewed by the Office of Management and Budget under Executive Order 12866. The proposed rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This proposed regulation will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed regulations do not alter the budgetary effects of entitlements, grants, user fees, or loan programs of the right or obligations of their recipients; nor do they raise novel legal or policy issues.

Executive Order 12866, Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to such questions as the following:

1. Are the requirements in the proposed rule clearly stated?
2. Does the proposed rule contain technical language or jargon that interferes with its clarity?
3. Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the rule be easier to understand if it were divided into more (but shorter) sections?

(A “section” appears in bold type and is preceded by the symbol § and a numbered heading, for example, **§ 1864.1–3 Action on Application.**)

5. Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? How could this description be more helpful in making the proposed regulations easier to understand? Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Director (630), Bureau of Land Management, Administrative

Records, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD50.

National Environmental Policy Act

BLM has determined that this proposed rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, under 516 Departmental Manual (DM), Chapter 2, Appendix I, Item 1.10, and has concluded that the proposed rule does not meet any of the ten exceptions to the categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Under 516 DM, Chapter 2, Appendix 1, § 1.10, this proposed rule qualifies as a categorical exclusion because it is procedural in nature, therefore its environmental effect is too broad, speculative or conjectural to analyze.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The proposed changes to the current rules would have no impact on an applicant's costs for filing or processing an application for a disclaimer of interest which currently consist of a one time filing fee of \$100 and fact-specific processing costs with provisions for a fee waiver.

The changes BLM proposes are intended to clarify existing requirements and qualifications. These changes would positively affect all applicants, whether small entities or not.

Unfunded Mandates Reform Act

BLM has determined that this proposed rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. section 1532, because it will not result in State, local and tribal government, or private sector expenditures of \$100 million or more in any one year. This proposed rule will not significantly or uniquely affect small governments.

Executive Order 12630, Government Action and Interference With Constitutionally Protected Property Rights (Takings)

In accordance with Executive Order 12630, BLM has found that the rule does not have significant takings implications. No takings of personal or real property will occur as a result of this rule. The rule broadens the opportunity for the United States to issue disclaimers of interest in land, thereby making it easier to remove clouds on title to certain lands. A takings implication analysis is not required.

Executive Order 13132, Federalism

In accordance with Executive Order 13132, BLM finds that the rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact assessment. The rule does not have substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. The rule does not preempt State law. The rule broadens the opportunity for States and other entities to apply for a disclaimer of interest in land, thereby removing clouds on the title to certain lands.

Executive Order 12988, Civil Justice Reform

The Department of the Interior has determined that this proposed rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, BLM finds that this proposed rule does not propose significant changes to BLM policy and that Tribal Governments will not be unduly affected by this proposed rule.

Executive Order 13211, Action Concerning Regulations that Significantly Effect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, BLM finds that this proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The distribution of or use of energy will not be unduly affected by this proposed rule.

Paperwork Reduction Act

BLM has determined these proposed regulations do not contain any new information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Author

This rule was written by Jeff Holdren, BLM Lands and Realty Deputy Group Manager, assisted by Cynthia Ellis of the BLM Regulatory Affairs Group and the Office of the Solicitor.

List of Subjects at 43 CFR Part 1860

Administrative practice and procedure, Public lands.

Dated: February 6, 2002.

J. Steven Griles,

Deputy Secretary of the Interior.

Accordingly, for the reasons stated in the preamble and under the authority of the FLPMA (43 U.S.C. 1740), BLM proposes to amend part 1860, subpart 1864 of title 43 of the Code of Federal Regulations as set forth below:

PART 1860—CONVEYANCES, DISCLAIMERS, AND CORRECTIONS DOCUMENTS

Subpart 1864—Recordable Disclaimers of Interest in Land

1. The authority citation for subpart 1864 is added to read as follows:

Authority: 43 U.S.C. 1201, 1740, and 1745.

2. Revise 1864.1-1 to read as follows:

§ 1864.1-1 Filing of application.

(a) Any entity claiming title to lands may file an application to have a disclaimer of interest issued if there is reason to believe that a cloud exists on the title to the lands as a result of a claim or potential claim by the United States and that such lands are not subject to any valid claim of the United States.

(b) Before you actually file an application you should meet with BLM to determine if the regulations in this subpart apply to you.

(c) You must file your application for a disclaimer of interest with the proper BLM office as listed in § 1821.10 of this title.

3. Revise § 1864.1-3 to read as follows:

§ 1864.1-3 Action on Application.

(a) BLM will not approve an application, except for an application filed by a state, if more than 12 years have elapsed since the applicant knew, or should have known, of the claim by the United States.

(b) BLM will disapprove an application if:

(1) The application pertains to a security interest or water rights; or,

(2) The application pertains to trust or restricted Indian lands.

(c) BLM will, if the application meets the requirements for further processing, determine the amount of deposit we need to cover the administrative costs of processing the application and issuing a disclaimer.

(d) The applicant must submit a deposit in the amount BLM determines.

(e) If the application includes what may be omitted lands, BLM will process it in accordance with the applicable provisions of part 9180 of this title. If BLM determines the application involves omitted lands, BLM will notify the applicant in writing.

[FR Doc. 02-4137 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-84-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-297; MM Docket Nos. 02-23, 02-24, 02-25, 02-26; RM-10359-10362]

Radio Broadcasting Services; Keeseville, New York, Hartford and White River Junction, Vermont; Harrodsburg and Keene, Kentucky; Beverly Hills and Spring Hill, Florida; Bridgeton and Elmer, New Jersey

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment in four separate docketed proceedings in a multiple docket *Notice of Proposed Rule Making*. (1) At the request of Great Northern Radio, LLC and Family Broadcasting, Inc., the Commission proposes to reallocate Channel 282C3 from Hartford, Vermont to Keeseville, New York and Channel 237A from White River Junction to Hartford, and modify the licenses of Stations WSSH(FM) and WWOD(FM) to reflect the changes. Coordinates for Channel 237A at Hartford are 43-43-45 NL and 72-22-22 WL. Coordinates for Channel 282C3 at Keeseville are 44-31-31 NL and 73-31-07 WL. Channel 237A can be allotted at Hartford at a site 8.1 kilometers (5.0 miles) north of the community. Channel 282C3 can be allotted at Keeseville at a site 3.8 kilometers (2.3 miles) northwest of the community. These proposals are within 320 kilometers of the Canadian border. Therefore, Canadian

concurrence has been requested. (2) At the request of Mortenson Broadcasting Company of Central Kentucky, LLC, the Commission proposes to substitute Channel 256A for Channel 257C3 at Harrodsburg, and reallocate Channel 256A from Harrodsburg, to Keene, Kentucky, as the community's first local transmission service, and modify the license of Station WJMM-FM to reflect the changes. Coordinates for Channel 256A at Keene are 37-56-36 NL and 84-38-31 WL. Channel 256A can be allotted at Keene, Kentucky without a site restriction. See Supplementary Information.

DATES: Comments are due on April 1, 2002, and reply comments are due on April 16, 2002.

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

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, parties interested in MM Docket 02-23 should serve petitioners, Great Northern Radio, LLC and Family Broadcasting, Inc., or its counsel or consultant, as follows: David G. O'Neill, Jonathan E. Allen, Manatt, Phelps & Phillips, 1501 M Street, NW., Suite 700, Washington, DC 20005-1702. Parties interested in MM Docket No. 02-24 should serve petitioner Mortenson Broadcasting Company of Central Kentucky, LLC, or its counsel or consultant, as follows: Jerrold Miller, Miller & Miller, P.C., P.O. Box 33003, Washington, DC 20033. Parties interested in MM Docket No. 02-25 should serve petitioner WGUL-FM, Inc., or its counsel or consultant, as follows: James A. Koerner, Koerner & Olender, P.C., 5809 Nicholson Lane, Suite 124, North Bethesda, MD 20852. Parties interested in MM Docket No. 02-26 should serve petitioner, Cohanzick Broadcasting Corp., or its counsel or consultant, as follows: Marnie Sarver, Wiley Rein & Fielding, LLP, 1776 K Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 02-23, 02-24, 02-25, 02-26, adopted January 30, 2002, and released February 8, 2002. 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.

(3) At the request of WGUL-FM, Inc., the Commission proposes to reallocate Channel 292C3 from Beverly Hills, Florida, to Spring Hill, Florida, as its first local transmission service, and modify Station WGUL-FM's license to reflect the changes. Coordinates for Channel 292C3 at Spring Hill, Florida are 28-36-00 NL and 82-33-45 WL. Channel 292C3 can be allotted at Spring Hill at a site 12.0 kilometers (7.5 miles) northwest of the community. (4) At the request of Cohanzick Broadcasting Corp., we propose to reallocate Channel 299B from Bridgeton to Elmer, New Jersey, as that community's first local transmission service, and modify the license of Station WSNJ-FM to reflect the changes. Coordinates for Channel 299B at Elmer are 39-27-32 NL and 75-12-12 WL. Channel 299B can be allotted at Elmer, New Jersey at Cohanzick's current transmitter site 15.4 kilometers (9.6 miles) south of the community.

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, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 282A3 and adding Channel 237A at Hartford, and removing White River Junction, Channel 237A.

3. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Keeseville, Channel 282C3.

4. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Harrodsburg, Channel 257C3, and adding Keene, Channel 256A.

5. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Beverly Hills, Channel 292C3, and adding Spring Hill, Channel 292C3.

6. Section 73.202(b), the Table of FM Allotments under New Jersey, is amended by removing Bridgeton, Channel 299B, and adding Elmer, Channel 299B.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02-4220 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 177

[Docket No. RSPA-01-10533 (HM-218A)]

RIN 2137-AD44

Transportation of Hazardous Materials; Unloading of Intermodal (IM) Portable Tanks on Transport Vehicles

AGENCY: Research and Special Programs
Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Materials Regulations to permit, for an interim period and subject to certain unloading conditions, the unloading of intermodal (IM) portable tanks transporting certain liquid hazardous materials that are not equipped with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. Permitting such unloading for an interim period would afford operators time to bring the IM portable tanks into conformance with the regulations.

DATES: Comments must be received by April 8, 2002.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh St., SW., Room PL 401, Washington, DC 20590-0001. Comments must identify Docket Number RSPA-01-10533 (HM-218A). If you wish to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. You may also submit and review all comments by accessing the Dockets Management System's website at <http://dms.dot.gov>. The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. You may view public dockets between the hours of 9 a.m. and 5 p.m., Monday through Friday, except on federal holidays.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S.

Department of Transportation, 400 Seventh St., SW., Washington, DC 20590-0001, telephone (202) 366-8553.

SUPPLEMENTARY INFORMATION:

I. Background

In this NPRM, the Research and Special Programs Administration (RSPA) (hereafter, "we" means RSPA) addresses the appeal of a denial of a petition for reconsideration and a petition for rulemaking. Both of these actions are regarding the provisions in § 177.834(o) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), permitting an IM portable tank to be unloaded while it remains on a transport vehicle.

On July 10, 1998, we published a final rule under Docket RSPA-97-2905 (HM-166Y; 63 FR 37454) amending the HMR by incorporating miscellaneous changes based on petitions for rulemaking and our own initiative. The effective date of the final rule was October 1, 1998. Among other provisions, the final rule allows an IM portable tank transporting a liquid hazardous material that is flammable, pyrophoric, oxidizing, or toxic, to be unloaded while remaining on a transport vehicle with the power unit attached, provided the outlet requirements in 49 CFR 178.345-11 and the attendance requirements in 49 CFR 177.834(i) are met. Section 178.345-11 includes requirements for loading/unloading outlets on cargo tanks to be equipped with self-closing systems with remote means of closure capable of thermal activation at temperatures not exceeding 250°F. Section 177.834(i) includes requirements for ensuring that cargo tanks are attended by a qualified person during loading and unloading.

We received three petitions for reconsideration to the July 10, 1998, final rule. The Dangerous Goods Advisory Council (DGAC), the Tank Container Association (TCA), and Merck & Co., Inc. requested a 2½ year extension of the compliance date, stating it was not feasible to equip existing IM portable tanks with fusible links by October 1, 1998. On October 30, 1998, we published a final rule (HM-166Y; 63 FR 58323) denying the three petitions for reconsideration to the July 10, 1998, final rule. The denial was based on our belief that unloading an IM portable tank in the same manner as a cargo tank, but without the same outlet requirements, poses increased safety risks in a fire situation when an operator is not able to manually activate the closure.

After publication of the October 30, 1998, final rule, we received an appeal of the denial of the petitions for reconsideration from TCA, reiterating

the request for extending the compliance date for 2½ years. We also received a petition for rulemaking from the DGAC, requesting we adopt operating conditions for unloading an IM portable tank with no thermal means of remote activation of the internal self-closing stop-valves installed on the bottom discharge outlets, when it is on a transport vehicle. DGAC suggested these unloading operations be permitted only at facilities:

1. Equipped with fire suppression systems as required by the Department of Labor's Occupational Safety and Health Administration (OSHA) regulations codified at 29 Code of Federal Regulations (CFR) 1910.106;

2. Providing static electricity protection and bonding as required by 29 CFR 1910.106;

3. Implementing emergency response plans and procedures in accordance with OSHA regulations codified at 29 CFR 1910.120;

4. Conforming to the OSHA process safety management standards, codified at 29 CFR 1910.119, the Environmental Protection Agency (EPA) risk management regulations, codified at 40 CFR Part 68, or an equivalent program; and

5. Prohibiting public access to the unloading area.

In addition, the operator would be required to comply with the attendance requirements in § 177.834(i) of the HMR.

DGAC stated its recommended operating restrictions would ensure an equivalent level of safety to the outlet requirements in § 178.345-11. DGAC suggested these operating restrictions could be adopted on an interim basis to provide sufficient time for operators to equip their IM portable tanks with the outlet requirement. In a subsequent submission, DGAC requested a three-year extension of the compliance date to assure sufficient time for operators to equip all affected IM portable tanks.

The intent of the unloading provision in the July 10, 1998, final rule was to provide regulatory relief for operators of IM portable tanks equipped with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. We continue to believe if a portable tank is to be unloaded in the same manner as a cargo tank, it should be equipped with the same emergency shutdown devices required for cargo tanks. However, after re-examining the issues raised by DGAC and TCA, we are proposing to permit, for an interim period, an IM portable tank not currently equipped with a thermal means of remote activation of the

internal self-closing stop-valve fitted on bottom discharge outlets, to be unloaded while remaining on a transport vehicle under certain conditions. The conditions, as proposed later in this preamble, would provide an acceptable level of safety during an interim period by reducing the possibility of fire and release of hazardous materials during the unloading of IM portable tanks. Permitting such unloading for a temporary period affords operators additional time to equip IM portable tanks in accordance with the outlet requirement, if they want to be able to unload these tanks in the same manner as cargo tanks.

In this NPRM, we are proposing to permit such unloading operations until October 1, 2003. This date provides manufacturers, lessors, and users of the affected IM portable tanks a total of five years from the October 1, 1998 effective date of the July 10, 1998 final rule to equip the tanks with a thermal means for remotely activating bottom discharge outlets. Since these tanks are periodically inspected every five years, it also provides the opportunity for the retrofit to be done at the time of the periodic inspection, thus minimizing cost impacts. Many of these tanks should already be so equipped. On and after October 1, 2003, an IM portable tank containing a hazardous material that is flammable, pyrophoric, oxidizing or toxic, could not be unloaded while remaining on a transport vehicle with the power unit attached unless it fully conforms to the outlet requirements in § 178.275(d)(3).

We are also proposing to change the outlet section reference for IM portable tanks from § 178.345–11 to § 178.275(d)(3). In a final rule published June 21, 2001 (RSPA–2000–7702, HM–215D; FR 66 33316), we added § 178.275(d)(3) to address the requirements for equipping UN portable tanks with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. Although the two sections contain the same requirements, the addition of § 178.275(d)(3) into the HMR now makes it a more appropriate reference because it is specific to IM portable tank requirements.

Based on the above discussion, we are proposing to revise § 177.834(o) to permit, until October 1, 2003, the unloading of an IM portable tank not meeting the outlet requirements in § 178.275(d)(3), provided certain unloading conditions are met. The shipper and the carrier would share responsibility for verifying that the consignee's facility meets certain

conditions and that the following requirements are met:

(1) The facility at which the IM portable tank is to be unloaded must have systems in place that conform to applicable OSHA fire suppression requirements in 29 CFR 1910.106(e); the emergency shutdown requirements in 29 CFR 1910.119(f); and OSHA's and EPA's emergency response planning requirements in 29 CFR 1910.119(f) and 40 CFR part 68, respectively; or equivalent or more stringent non-federal requirements; and an emergency discharge control procedure in place applicable to unloading operations, including instructions for handling emergencies that may occur during the unloading operation.

(2) Public access to the unloading area must be controlled in a manner ensuring that public access is denied during unloading.

(3) The attendance requirements in § 177.834(o) must be met.

(4) Prior to unloading, the operator of the vehicle on which the IM portable tank is transported must ascertain the conditions in proposed paragraph (o) are met.

(5) Persons performing unloading functions must be trained in handling emergencies that may occur during the unloading operation.

In § 173.32, as amended under HM–215D, we are proposing to revise paragraph (g)(1) by removing the reference to § 177.834(i)(2). The referenced section, which addresses attendance and unloading requirements, would no longer be necessary with the adoption of proposed § 173.32(h)(3), which references a more appropriate section for IM portable tanks (§ 177.834(o)). Proposed paragraph (h)(3) would alert shippers of their shared responsibility for ensuring that IM portable tanks not conforming to the requirements in § 178.275(d)(3) are unloaded only at facilities conforming to the applicable OSHA and EPA requirements, or are equipped to remove the portable tank from the transport vehicle prior to unloading.

Finally, we are proposing to further revise § 177.834(o) to clarify the requirement for a thermal means of remote activation of bottom discharge outlets applies only to liquid hazardous materials that are flammable, pyrophoric, oxidizing or toxic. In this way we are limiting the applicability to materials posing a risk of fire or acute health and environmental risks. This clarification proposal is consistent with the current requirements located in §§ 178.345–11 and 178.275.

II. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The proposed rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. The costs and benefits of this proposed rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or a regulatory evaluation. The provisions of this proposed rule respond to an industry petition and would impose little or no additional costs on the affected companies. The proposed alternative interim provisions provide the industry additional time to come into compliance with existing regulatory requirements for those IM portable tanks intended to be unloaded in the same manner as cargo tanks. There is no requirement in the current regulations, and we are not proposing one in this NPRM, for an IM portable tank to conform to the outlet requirements if it is not intended to be unloaded while it remains on a transport vehicle with the power unit attached. Any adverse safety impacts from the regulatory relief provided by this proposal would be minimized by conformance with the interim provisions proposed herein.

B. Executive Order 13132

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule would preempt state, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Federal hazardous material transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) preempting state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject items (2) and (5) above and would preempt state, local, and Indian tribe requirements not meeting the "substantively the same" standard.

Federal hazardous materials transportation law provides at § 5125(b)(2) that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA proposes the effective date of federal preemption will be 180 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13175

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines a rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule applies to manufacturers, operators, lessors and users of IM portable tanks, some of whom are small entities. This proposed rule would benefit such persons by further relaxing an existing requirement for an interim period. Therefore, I certify this rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. This proposed rule does not propose any new information collection burdens. The information collection associated with information specified in § 177.834(o) of this proposed rule is currently required by other Federal regulations. In the proposed § 177.834(o)(2)(i) and (o)(2)(iii), the information collection requirements pertaining to fire suppression and emergency shutdown are currently required by the Department of Labor's OSHA. Finally, in the proposed § 177.834(o)(2)(iv), the emergency response planning requirements are currently required by the Environmental Protection Agency. Based on this discussion, this proposed rule does not require any additional incremental burden hours.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either state, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. We developed an assessment to determine the effects of this proposed revision on the environment and whether a more comprehensive environmental impact statement may be required. Our findings conclude there are no significant environmental impacts associated with this proposed rule. Allowing the unloading of IM portable tanks for an interim period, provided the unloading conditions proposed in this rulemaking

are met, permits operators to avoid the potential for environmental damage or contamination and allows manufacturers, lessors and users the needed time to properly equip the IM portable tanks. For interested parties, an environmental assessment is available in the public docket.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Chapter I as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 173.32, paragraph (g)(1) would be revised and a new paragraph (h)(3) would be added to read as follows:

§ 173.32 Requirements for the use of portable tanks.

* * * * *

(g) * * *

(1) A portable tank containing a hazardous material may not be loaded on to a highway or rail transport vehicle unless loaded entirely within the horizontal outline of the vehicle, without overhang or projection of any part of the tank assembly.

* * * * *

(h) * * *

(3) No person may offer an IM portable tank transporting a liquid hazardous material that is flammable, pyrophoric, oxidizing, or toxic, as defined in part 173, to a facility for unloading while it remains on a transport vehicle with the power unit attached, unless—

(i) The tank outlets conform to § 178.275(d)(3) of this subchapter;

(ii) The facility at which the IM portable tank is to be unloaded conforms to the requirements in § 177.834(o) of this subchapter; or

(iii) The facility at which the IM portable tank is to be unloaded is equipped to remove an IM portable tank

from a transport vehicle prior to unloading.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

4. The authority citation for part 177 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

5. In § 177.834, paragraph (o) would be revised to read as follows:

§ 177.834 General requirements.

* * * * *

(o) *Unloading of IM portable tanks.* No person may unload an IM portable tank while it remains on a transport vehicle with the motive power unit attached except under the following conditions:

(1) The unloading operation must be attended by a qualified person in accordance with the requirements in

paragraph (i) of this section. The person performing unloading functions must be trained in handling emergencies that may occur during the unloading operation.

(2) Prior to unloading, the operator of the vehicle on which the IM portable tank is transported must ascertain the conditions of this paragraph (o) are met.

(3) An IM portable tank containing a liquid hazardous material that is flammable, pyrophoric, oxidizing, or toxic, as defined in part 173 of this subchapter, must conform to the outlet requirements in § 178.275(d)(3) of this subchapter; or, until October 1, 2003, be unloaded only at a facility conforming to the following—

(i) The applicable fire suppression requirements in 29 CFR 1910.106(e), (f), (g), (h), and (i);

(ii) The emergency shutdown requirements in 29 CFR 1910.119(f), 1910.120(q) and 1910.38(a);

(iii) The emergency response planning requirements in 29 CFR Part 1910, 40 CFR Part 68, or equivalent or more stringent non-federal requirements, and an emergency discharge control procedure applicable to unloading operations including instructions on handling emergencies that may occur during the unloading operation; and

(iv) Public access to the unloading area must be controlled in a manner ensuring no public access during unloading.

Issued in Washington, DC on February 19, 2002, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–4284 Filed 2–21–02; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register

Vol. 67, No. 36

Friday, February 22, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—State Administrative Expense Fund

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this Notice announces the Food and Nutrition Service's (FNS) intention to request Office of Management and Budget (OMB) review of the information collection related to State administrative expense funds, including the adjustments to be made as a result of the final rule, School Nutrition Programs: Nondiscretionary Technical Amendments published on September 20, 1999.

DATES: To be assured of consideration, comments must be received by April 23, 2002.

ADDRESSES: Send comments and requests for copies of this information collection to: Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 636, Alexandria, Virginia 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

FOR FURTHER INFORMATION CONTACT: Mr. Terry Hallberg at (703) 305-2590.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR Part 235, State Administrative Expense Funds Regulations.

OMB Number: 0584-0067.

Expiration Date: September 30, 2002.

Type of Request: Extension of a currently approved collection.

Abstract: Section 7 of the Child Nutrition Act of 1966 (Pub. L. 89-642), 42 U.S.C. 1776, authorizes the Department to provide Federal funds to State agencies (SAs) for administering the Child Nutrition Programs. Part 235 of 7 CFR, State Administrative Expense Funds (SAE), sets forth procedures and recordkeeping requirements for use by SAs in reporting and maintaining records of their needs and uses of SAE funds. The final rule, School Nutrition Programs: Nondiscretionary Technical Amendments (64 FR 50735, September 20, 1999) amended 7 CFR 235.5(c) by removing the requirement that State agencies submit annual SAE plans and now requires States to only submit substantive changes to approved plans. Therefore, the burden hours associated with the SAE Plan have been reduced. This final rule also eliminated the 10 percent transfer limitation of funds between programs and there is no limitation to the amount a state agency can transfer between programs. Also, the agreement, FCS-74, Federal-State Agreement, is contained in the information collections for 7 CFR part 235.

Estimate of Burden: The reporting burden for this collection of information is estimated at 2052 burden hours. The recordkeeping burden is estimated at 12,922 burden hours, which is comprised of the maintenance of records to document usage of SAE funds.

Estimated Number of Respondents: 88 respondents.

Average Number of Responses per Respondent: 131 responses.

Estimated Total Annual Burden on Respondents: 14,974 burden hours.

Dated: February 14, 2002.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 02-4241 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Idaho Resource Advisory Committee; Caribou-Targhee National Forest, Idaho Falls, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Caribou-Targhee National Forests' Eastern Idaho Resource Advisory Committee will meet Monday, March 11, 2002, in Idaho Falls for a business meeting. The meeting is open to the public.

DATES: The business meeting will be held on March 11, 2002, from 10 a.m. to 3 p.m.

ADDRESSES: The meeting location is the Hampton Inn, 2500 Channing Way, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Jerry Reese, Caribou-Targhee National Forest Supervisor and Designated Federal Officer, at (208) 524-7500.

SUPPLEMENTARY INFORMATION: The business meeting on March 11, 2002, begins at 10 am, at the Hampton Inn, 2500 Channing Way, Idaho Falls, Idaho. Agenda topics will include FACA overview, project application form, project solicitation.

Dated: February 15, 2002.

Jerry B. Reese,

Caribou-Targhee Forest Supervisor.

The Eastern Idaho Resource Advisory Council (RAC) will hold its second meeting March 11, 2002 to finalize the application form and determine how to solicit projects totaling \$70,000. The Eastern Idaho RAC covers those counties in which the Caribou-Targhee National Forest lies. RAC members will formulate recommendations for National Forest Restoration Projects. The recommendations will then be forwarded to the Secretary of

Agriculture or the Designated Federal Officer to start the approval process. The Eastern Idaho RAC is one of five statewide, established with the passage of the Secure Rural Schools and Community Self-Determination Act of 2002. The Act gives counties the option of continuing to receive 25 percent of the revenue generated from activities on National Forests such as timber harvest, grazing, and mining, or electing their share of the average of the three highest 25 percent payments made top the state from 1986 through 1999.

[FR Doc. 02-4316 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-11-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

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

ACTION: Additions to Procurement List.

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

EFFECTIVE DATE: March 25, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603-7740.

SUPPLEMENTARY INFORMATION: On November 9, December 21, 2001 and January 4, 2002 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 56635, 65876 and 67 FR 556) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small

entities other than the small organizations that will furnish the products and services to the Government.

2. The action will not have a severe economic impact on current contractors for the products and services.

3. The action will result in authorizing small entities to furnish the commodities and products and services.

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

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

Products

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Refillable Applicator)/7510-01-338-3317.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Roller Refill Cartridge)/7510-01-350-1810.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Roller Non-Refillable Applicator)/7510-01-390-0717.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Adjustable Tip Applicator)/7520-00-NIB-1524.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Mini Dispenser—3 Pack)/7520-00-NIB-1525.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Dry-Lighter 3 Pack—Green, Pink, Yellow)/7520-00-NIB-1526.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Dry-Lighter 3 Pack—Yellow)/7520-00-NIB-1527.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Services

Service Type/Location: Food Service Attendant/Air National Guard-Iowa, Des Moines, Iowa.

NPA: Progress Industries, Newton, Iowa.

Contract Activity: Iowa Air National Guard, Des Moines Iowa.

Service Type/Location: Mail and Messenger Service/Department of Housing and Urban Development, Washington, DC.

NPA: Didlake, Inc., Manassas, Virginia.

Contract Activity: Department of Housing & Urban Development.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02-4298 Filed 2-21-02; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

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

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 25, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C

47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

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

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

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C.46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Base Supply Center & HAZMART/Fleet and Industrial Supply Center, Jacksonville (Detachment Naval Station Guantanamo Bay Cuba).

NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.

Contract Activity: Fleet & Industrial Supply Center, Jacksonville, Florida.

Service Type/Location: Food Service/ Pueblo Chemical Depot, Pueblo, Colorado.

NPA: Pueblo Diversified Industries, Inc., Pueblo, CO.

Contract Activity: U.S. Army, Rocky Mountain Arsenal, Commerce City, CO.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–4300 Filed 2–21–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 021902B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Vessel Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0358.

Type of Request: Regular submission.

Burden Hours: 5,350.

Number of Respondents: 7,000.

Average Hours Per Response: 45 minutes to mark vessel identification numbers (15 minutes for each of three locations) and 30 minutes to mark fish trap vessel color codes (10 minutes for each of three locations).

Needs and Uses: Regulations at 50 CFR 622.6 and 640.6 require that all vessels with Federal permits to fish in the Southeast display the vessel's official number and, in some cases, a color code. The markings must be in a specific size at specified locations. The display of the identifying markings aids in fishery law enforcement.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Third-party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at McClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–4278 Filed 2–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Census Bureau

Current Population Survey (CPS)—Race and Ethnicity Supplement

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Teresa Hicks, Census Bureau, FOB 3, Room 3340, Washington, DC 20233–8400, (301) 457–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the collection of data concerning the Race and Ethnicity Supplement to be conducted in conjunction with the May 2002 CPS. Title 13, United States Code, Section 182, and Title 29, United States Code, Sections 1–9, authorize the collection of the CPS information. The Census Bureau is sponsoring this supplement.

Per Office of Management and Budget mandate, the CPS must revise its collection of race and ethnic data in January 2003. In order for the Bureau of Labor Statistics (BLS) to properly analyze the impact of this revision on the CPS data, a set of overlap statistics showing the effect of this change is necessary. The May supplement will ask the race and ethnicity questions identically to how they will be asked in January 2003. The result will be a complete set of labor force statistics from the CPS that will contain race and ethnicity data captured with both the current and the January 2003 procedures. This dataset will allow the BLS and other users of CPS data to comprehend the impact of the change in

the race and ethnicity questions on statistics derived from the CPS.

II. Method of Collection

The race and ethnicity information will be collected by both personal visit and telephone interviews in conjunction with the regular May CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Number: None.

Form Number: There are no forms. We conduct all interviews on computers.

Type of Review: Regular.

Affected Public: Households.

Estimated Number of Respondents: 57,000.

Estimated Time Per Response: 1.35 minutes.

Estimated Total Annual Burden Hours: 1,283.

Estimated Total Annual Cost: The only cost to respondents is that of their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for the Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Dated: February 19, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–4310 Filed 2–21–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838 and C–122–839]

Correction to Amendment to Preliminary Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada; Amendment to Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of correction to amendment to preliminary determination of sales at less than fair value and amendment to preliminary affirmative countervailing duty determination, preliminary affirmative critical circumstances determination, and alignment of final countervailing duty determination with final antidumping determination.

SUMMARY: The Department of Commerce is issuing a correction to its notice of amendment to preliminary determination in the antidumping duty (AD) investigation and preliminary determination in the countervailing duty (CVD) investigation of certain softwood lumber products from Canada to correct the effective date of the amendment.

EFFECTIVE DATES: May 19, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Riggle at 202–482–0650 or Maria MacKay at 202–482–1775, Office of AD/CVD Enforcement V, and AD/CVD Enforcement VI, respectively, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Correction

On February 11, 2002, the Department of Commerce (“the Department”) published in the **Federal Register** an amendment to preliminary determination of sales at less than fair value and amendment to preliminary affirmative countervailing duty determination in certain softwood lumber from Canada (67 FR 6230). The effective date of the amendment was inadvertently written as February 11, 2002, instead of May 19, 2001, which is the effective date of suspension of liquidation pursuant to the preliminary affirmative countervailing duty determination. See *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186, 43215. Therefore, we are correcting the effective date for the amendment to be May 19, 2001.

This notice is issued and published pursuant to section 777(i)(1) of the Act.

Dated: February 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4269 Filed 2–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Preliminary Determinations of Antidumping Duty Investigations. Certain Cold-Rolled Carbon Steel Flat Products from Argentina (A–357–816), Australia (A–602–804), Belgium (A–423–811), Brazil (A–351–834), the People's Republic of China (A–570–872), France (A–427–822), Germany (A–428–834), India (A–533–826), Japan (A–588–859), Korea (A–580–848), the Netherlands (A–421–810), New Zealand (A–614–803), Russia (A–821–815), South Africa (A–791–814), Spain (A–469–812), Sweden (A–401–807), Taiwan (A–583–839), Thailand (A–549–819), Turkey (A–489–810) and Venezuela (A–307–822)

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) is postponing the preliminary determinations in the antidumping duty investigations of certain cold-rolled carbon steel flat products from Argentina, Australia, Belgium, Brazil, the People's Republic

of China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela from March 7, 2002 until no later than April 26, 2002. These postponements are made pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended.

EFFECTIVE DATES: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

James Terpstra (the Netherlands, Belgium, South Korea and Sweden), at (202) 482-3965, Charles Riggie (Taiwan) at (202) 482-0650, Tom Futtner (Australia and India) at (202) 482-3814, Constance Handley (New Zealand) at (202) 482-0631, Shawn Thompson (Brazil and Spain) at (202) 482-1776, Richard Rimlinger (South Africa and Argentina) at (202) 482-4477, Sally Gannon (Japan) at (202) 482-0162, Maureen Flannery (Thailand) at (202) 482-3020, Abdelali Elouaradia (France and Germany) at (202) 482-1374, Robert James (Turkey) at (202) 482-0649, Robert Bolling (Venezuela) at (202) 482-3434, and Jim Doyle (Russia and the People's Republic of China) at (202) 482-0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Postponement of Due Date for Preliminary Determinations

On October 18, 2001, the Department initiated antidumping duty investigations of imports of certain cold-rolled carbon steel flat products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela. The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. See 66 FR 54198 (October 26, 2001). Currently, the preliminary determinations in these investigations are due on March 7, 2002.

On January 14, 2002, petitioners alleged, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, that critical circumstances exist with respect to imports of certain cold-rolled carbon steel flat products from Argentina, Australia, China, India, the Netherlands, Russia, South Africa, South Korea and Taiwan.

On February 7, 2002, petitioners made a timely request pursuant to 19 CFR 351.205(e) for a 50-day postponement, pursuant to section 733(c)(1)(A) of the Act. Petitioners stated that a postponement of the preliminary determinations is necessary in order to permit a more complete and effective investigation and review of respondents' questionnaire and supplemental questionnaire responses, and accurate preliminary determinations.

Under section 733(c)(1)(A) of the Act, if the petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the administering authority initiated the investigation. Therefore, in accordance with petitioners' request for a postponement, the Department is postponing the preliminary determinations in these investigations until April 26, 2002, which is 190 days from the date on which the Department initiated these investigations.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

February 14, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-4266 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-829]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATES: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

Jarrold Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0189.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR part 351 (April 2000).

Scope of the Investigation

For purposes of this investigation, the term "stainless steel bar" includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this investigation is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for

convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Amended Final Determination

On January 15, 2002, the Department determined that stainless steel bar from Italy 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 Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy*, 67 FR 3155 (January 23, 2002) ("SSB Italy Final Determination"). On January 22, 2002, we received ministerial error allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from Rodacciai S.p.A. ("Rodacciai")

regarding the Department's final margin calculations. Rodacciai requested that we correct the errors and publish a notice of amended final determination in the **Federal Register**, pursuant to 19 CFR 351.224(e). Rodacciai's submission alleges that the Department inadvertently used the "date of sale" variable rather than the "date of shipment" variable when recalculating U.S. credit expenses.

The petitioners in this proceeding did not submit any comments on Rodacciai's ministerial error allegation.

In accordance with section 735(e) of the Act, we have determined that a ministerial error in the calculation of Rodacciai's U.S. credit expenses was

made in our final margin calculations. For a detailed discussion of the above-cited ministerial error allegation and the Department's analysis, *see* Memorandum to Richard W. Moreland, "Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of Stainless Steel Bar from Italy" dated February 14, 2002, which is on file in room B-099 of the main Commerce building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel bar from Italy to correct this ministerial error. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin average percentage
Acciaierie Valbruna Srl/Acciaierie Bolzano S.p.A.	2.50	2.50
Acciaiera Foroni SpA	7.07	7.07
Trafilerie Bedini, Srl	1.70	1.70
Rodacciai S.p.A.	5.89	3.83
Cogne Acciai Speciali Srl	33.00	33.00
All Others	3.81	3.81

* Pursuant to 19 CFR 351.204(d)(3), we have excluded rates calculated for voluntary respondents (*i.e.*, Rodacciai and Trafilerie Bedini, Srl) from the calculation of the all-others rate under section 735(c)(5) of the Act.

** Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero or *de minimis*, or determined entirely on facts available.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of stainless steel bar from Italy, except for subject merchandise produced by Bedini (which has a *de minimis* weighted-average margin). Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or constructed export price, as appropriate, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 14, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-4267 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-835]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Amended Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amendment of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On January 15, 2002, the Department of Commerce (the Department) published in the **Federal Register** its final results of the first administrative review of the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea for the period

November 17, 1998, through December 31, 1999 (67 FR 1964). On January 15, 2002, we received a timely filed ministerial error allegation. Based on our analysis of this information, the Department has revised the net subsidy rate for Inchon Iron & Steel Co., Ltd. (Inchon).

EFFECTIVE DATE: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

Tipten Troidl at 202-482-1767 or Darla Brown at 202-482-2849, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Corrections

On January 15, 2002, the respondent, Inchon, timely filed two ministerial error allegations. First, Inchon alleges that the Department calculated a countervailable benefit on an interest payment for a won-denominated variable rate loan outstanding during the POR by using an incorrect number of days outstanding. Inchon claims that the first ministerial error is the result of a keystroke error in one of the cells of the spreadsheet used to calculate the

number of days outstanding for an interest rate payment. Second, respondent argues that the Department made a ministerial error when it used won-denominated fixed-rate benchmarks to calculate benefits on won-denominated variable-rate loans outstanding during the POR. The petitioner has not commented on these ministerial error allegations.

We find that both alleged errors fulfill the criteria for being a ministerial error. We agree with Inchon that the Department inadvertently miscalculated the benefit attributed to an interest payment for a won-denominated variable rate loan outstanding during the POR. We have addressed this error for the amended final results by correcting the number of days outstanding used in the benefit calculation. We find that it does fulfill the criteria for being a ministerial error. Therefore, we made the appropriate corrections to the loan calculations. *See* February 14, 2002 "Memorandum to Bernard Carreau, Deputy Assistant Secretary for AD/CVD Enforcement II from Melissa G. Skinner, Director, Office Director, AD/CVD Enforcement VI, RE: Ministerial Error Allegation filed by Respondent, Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip from the Republic of Korea."

As a result, the net subsidy rate for the GOK's Direction of Credit program should have been 0.07 percent *ad valorem*.

Amended Final Results of Review

Pursuant to the Department's regulations at 19 CFR 351.224(e), Inchon's amended rate is 2.45 percent *ad valorem*.

The Department will instruct the Customs Service ("Customs") to assess countervailing duties on all appropriate entries on or after November 17, 1998, and on or before December 31, 1999. The Department will issue liquidation instructions directly to Customs. The amended cash deposit requirements are effective for all shipments from Inchon of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This amendment to the final results of the countervailing duty administrative review is in accordance with section 751(a)(1) of the Tariff Act, as amended, (19 U.S.C. 1675(a)(1)), 19 CFR 351.213, and 19 CFR 351.221(b)(5)).

Dated: February 15, 2002.

Faryar Shirzad,

Assistant Secretary for, Import Administration.

[FR Doc. 02-4268 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021502B]

Proposed Information Collection; Comment Request; Northeast Region Dealer Purchase Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kelley McGrath, One Blackburn Drive, Gloucester, MA 01930 (phone 978-281-9307 or e-mail Kelley.McGrath@noaa.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

Federally-permitted dealers in specified fisheries are required to submit information weekly regarding their fish purchases. Other dealers are asked to submit the information on a voluntary basis. A small number of commercial fishermen may also be asked to voluntarily provide information related to the purchase. The information obtained is used by economists, biologists, and managers in the management of the fisheries. NOAA is seeking to renew Paperwork Reduction Act approval for these requirements and to merge similar requirements approved under 0648-

0390 (bluefish) and 0648-0406 (herring).

II. Method of Collection

Depending upon the fishery, dealers submit forms on either a mandatory or voluntary basis. Mandatory respondents must also report via an Interactive Voice Response (IVR) system. Vessel captains maybe interviewed for related information.

III. Data

OMB Number: 0648-0229.

Form Number: NOAA Forms 88-30, 88-142.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 1,427.

Estimated Time Per Response: 2 minutes for a NOAA Form 88-30 or an interview; 4 minutes for an IVR report; and 30 minutes for a NOAA Form 88-142.

Estimated Total Annual Burden Hours: 4,163.

Estimated Total Annual Cost to Public: \$15,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-4274 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D. 021902E]****Proposed Information Collection; Comment Request; Northeast Region Logbook Family of Forms**

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kelley McGrath, One Blackburn Drive, Gloucester, MA 10930 (phone 978-281-9307 or e-mail Kelley.McGrath@noaa.gov).

SUPPLEMENTARY INFORMATION:**I. Abstract**

Fishing vessels permitted to participate in Federally-permitted fisheries in the Northeast are required to submit logbooks containing catch and effort information about their fishing trips. Participants in the herring and tilefish fisheries are also required to make weekly reports on their catch through an Interactive Voice Response (IVR) system. In addition, permitted vessels that catch halibut are asked to voluntarily provide additional information on the estimated size of the fish and the time of day caught. The information submitted is needed for the management of the fisheries.

This action seeks to both renew Paperwork Reduction Act clearance for this collection and to merge related requirements for bluefish and herring cleared under OMB control numbers 0648-0389 and 0648-0407.

II. Method of Collection

Most information is submitted on paper forms, although electronic means may be arranged. In the herring and tilefish fisheries vessel owners or operators must provide weekly catch information to an IVR system.

III. Data

OMB Number: 0648-0212.
 Form Number: NOAA Forms 88-30, 88-140.

Type of Review: Regular submission.
 Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 5,640.

Estimated Time Per Response: 5 minutes per Fishing Vessel Trip Report page (FVTR); 12.5 minutes per response for the Shellfish Log; 4 minutes for a herring or tilefish report to the IVR system; and 30 seconds for voluntary additional halibut information.

Estimated Total Annual Burden Hours: 6,396.

Estimated Total Annual Cost to Public: \$28,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-4280 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**[I.D. 021502A]****Submission for OMB Review; Comment Request**

The Department of Commerce has submitted to the Office of Management

and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fisheries Finance Program Requirements.

Form Number(s): NOAA Form 88-1.

OMB Approval Number: 0648-0012.

Type of Request: Regular submission.

Burden Hours: 10,000.

Number of Respondents: 1,250.

Average Hours Per Response: 8.

Needs and Uses: NOAA operates a direct loan program to assist in financing certain actions relating to commercial fishing vessels, shoreside fishery facilities, aquaculture operations, and individual fishing quotas. Application information is required to determine eligibility pursuant to 50 CFR Part 253 and to determine the type and amount of assistance requested by the applicant. An annual financial statement is required from recipients to monitor the financial status of the loan.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-4273 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D. 021902C]****Mid-Atlantic Fishery Management Council; Meetings**

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Surfclam and Ocean Quahog Committee with the Industry Advisors, Ecosystem Planning Committee, Protected Resources Committee, Executive Committee, and Law Enforcement Committee will hold a public meeting.

DATES: Monday, March 11 to Thursday, March 14, 2002. Monday, March 11, the Surfclam and Ocean Quahog Committee with the Industry Advisors will meet from 2 until 4 p.m. On Tuesday, March 12, the Ecosystem Planning Committee will meet from 8:30 a.m. until 2 p.m. The Protected Resources Committee will meet from 2 until 4 p.m. On Wednesday, March 13, the Executive Committee will meet from 9 until 10 a.m. The Law Enforcement Committee will meet from 10 a.m. until noon. Council will meet from 1 until 5 p.m. On Thursday, March 14, Council will meet from 8:00 a.m. until noon.

ADDRESSES: This meeting will be held at Gurney's Inn, 290 Old Montauk Highway, Montauk, NY, telephone 631-668-2345.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone 302-674-2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

SUPPLEMENTARY INFORMATION: Appropriate Council Committees will: review staff's recommendation regarding adoption of public hearing document for Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan, and approve public hearing document for Amendment 13 adoption by Council; review and discuss recreational and commercial management alternatives, and provide advice to potential research set-aside applicants regarding 2003 cycle; review Bottlenose Dolphin Take Reduction Team meeting results, and address potential impacts on Council fisheries;

review issues and actions from February Council Chairmen's meeting; informally review Fishery Achievement Award nominations, discuss identifying additional violations that warrant permit sanctions (Magnuson-Stevens Act Reauthorization issue), address U.S. Coast Guard crew identification requirements, and address potential of using fishing vessels and crews for homeland security. The Council will: receive and review the Surfclam and Ocean Quahog Committee's recommendation and approve adoption of public hearing document for Amendment 13; receive and review the Monkfish Committee's recommendations and approve establishment of goals and objectives for Amendment 2 to the Joint Monkfish FMP; receive and discuss organizational and committee reports including the New England Council's report regarding possible actions on herring, groundfish, monkfish, red crab, scallops, skates, and whiting.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: February 19, 2002.

Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-4279 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D. 021902A]****North Pacific Research Board; Notice of Public Meeting**

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

ACTION: Notice of teleconference and meeting.

SUMMARY: The North Pacific Research Board (Board) was created by Congress for the purpose of carrying out marine research activities in the waters off Alaska. The Board will meet by teleconference on March 1st, 2002, from 9 to 11 a.m., Alaska time, and will hold a meeting March 21-22 in Anchorage, AK.

DATES: March 1, 2002 and March 21-22, 2002.

ADDRESSES: 441 W. 5th Avenue, Suite 500, Anchorage, AK.

Staff address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Clarence Pautzke: 907-271-2809.

SUPPLEMENTARY INFORMATION: During the teleconference scheduled for March 1, the Board will consider approving research, demonstration and education projects and procedures for 2002. The Board also will consider approving a grant request for 2002-2003 and a science planning process leading to research in 2003. The meeting is open to the public who may listen in at the conference room of the Exxon Valdez Oilspill Trustees in Suite 500 at 441 West 5th ave, Anchorage, AK.

The full Board will then meet in Anchorage beginning at 8 a.m. on Thursday, March 21, 2002, and ending at noon on Friday, March 22, 2002. The meeting will held in the EVOS conference room at the same address as the teleconference described above. The Board will approve interim budgets and financial and administrative procedures, and a science planning processes leading to research in 2003 and 2004. The Board will also consider giving final approval to several projects using Environmental Improvement and Restoration Funds.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Clarence Pautzke at 907-271-2809 at least 7 working days prior to the meeting date.

Dated: February 19, 2002.

Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-4277 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 020602A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of applications for scientific research permits.

SUMMARY: NMFS has received applications for Endangered Species Act (ESA) scientific research permits from Oregon Department of Fish and Wildlife (ODFW) in Grants Pass, OR and from ODFW in Central Point, OR.

DATES: Comments or requests for a public hearing on either of the new applications must be received no later than 5 p.m. Pacific standard time on March 25, 2002.

ADDRESSES: The applications are available on the Internet at <http://www.nwr.noaa.gov/>. Written comments on the applications should be sent to Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737 (503/230-5400). Comments may also be sent via fax to 503/230-5435. Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Cherelle Blazer, Portland, OR; phone: 503/231-2001; fax: 503/230-5435; e-mail: Cherelle.Blazer@noaa.gov.

SUPPLEMENTARY INFORMATION: The ESA-listed evolutionary significant unit (ESU) Threatened Southern Oregon/Northern California Coasts (SONCC) Coho salmon is covered in this notice.

New Applications Received

ODFW is seeking a 5 year permit (1358) to take juvenile SONCC coho salmon in index and randomly selected sites in the Rogue River basin and in other Oregon coastal basins. The purpose of the study is to monitor the abundance of SONCC coho salmon in accordance with the Oregon Plan for Salmon and Watersheds. The study will benefit SONCC coho salmon by estimating the species abundance and distribution. ODFW proposes to capture (using backpack electrofishing, blocknetting, and dipnetting), handle, and release approximately 1,400 juvenile salmon annually. ODFW also requests indirect mortality of approximately 28 juvenile SONCC coho salmon annually during the study.

ODFW is also seeking a 5 year permit (1359) to take juvenile SONCC coho salmon associated with scientific research to be conducted at 168 sites in the Rogue River basin. This study intends to prioritize restoration efforts at fish passage barriers in the Rogue basin, survey streams to determine the species of fish below and above barriers, and determine the severity of fish passage problems. The research will benefit SONCC coho salmon by characterizing the species' distribution and identifying fish passage improvement projects that will greatly benefit the wild fish populations. ODFW proposes to capture (using backpack electrofishing, blocknetting, and dipnetting), identify, and release approximately 146 juvenile SONCC coho salmon annually. ODFW also requests an annual indirect mortality of approximately 8 juvenile SONCC coho salmon during the study.

Dated: February 19, 2002.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02-4281 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[Docket No. 020122018-2018-01; I.D. 111601B]

National Artificial Reef Plan Revision

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

ACTION: Notice of availability; request for comments.

SUMMARY: The National Artificial Reef Plan of 1985 (National Plan) was originally published as NOAA Technical Memorandum NMFS OF-6 in November 1985. NMFS requests comments on proposed revisions to the National Plan.

DATES: Comments must be received no later than May 23, 2002.

ADDRESSES: Comments on the proposed revisions should be submitted to William L. Price, National Coordinator for Marine Recreational Fisheries Programs, 1315 East West Highway, Suite 14752, Silver Spring, MD 20910. Comments may also be submitted via Fax. Comments submitted via electronic mail will not be accepted. Requests for hard copies of proposed revisions to the National Artificial Reef Plan should be

addressed to C. Michael Bailey, NOAA-Fisheries, Suite 134, 9721 Executive Center Drive North, St. Petersburg, FL, 33702.

FOR FURTHER INFORMATION CONTACT: William L. Price, (301) 713-9504; fax (301) 713-2384.

SUPPLEMENTARY INFORMATION: The National Plan of 1985 was developed by the Secretary of Commerce under direction of the National Fishing Enhancement Act of 1984 (Act). The National Plan, which was designed to be a dynamic working document that would be updated as new information became available, was originally published in November 1985 as NOAA Technical Memorandum NMFS OF-6.

The National Plan provided guidance on various aspects of artificial reef use, including types of construction materials and planning, siting, designing, and managing artificial reefs. The 1985 document was general in scope and provided a framework for regional, state, and local planners to develop more detailed, site-specific artificial reef plans sensitive to highly variable local needs and conditions. Since 1985, extensive research has been conducted shedding new light on issues pertaining to artificial reefs. Accordingly, the NMFS has revised the National Plan. The revision follows the format of the 1985 Plan incorporating changes to original text in key areas. The most significant deviations occur in the section dealing with materials. The revision also addresses several critical issues of national importance which provide the focus for much of the debate regarding man-made reef activities. These include the permit programs, materials criteria, liability, research and evaluation, site location, and the roles of affected federal agencies and the regional fisheries management councils. In addition, one of the main areas of emphasis was to include language to reiterate the importance of man-made structures as a fisheries management tool. New language in the National Plan is consistent with the guidelines and recommendations of the Atlantic, Gulf, and Pacific States Marine Fisheries Commissions and representatives of state artificial reef programs relative to artificial reef development.

Dated: February 14, 2002.

Rebecca Lent,

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

[FR Doc. 02-4275 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Availability of the Draft Environmental Impact Statement for the Proposed Rueter-Hess Reservoir, Parker, CO****AGENCY:** Department of the Army, DoD.**ACTION:** Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (Corps) has prepared a Draft Environmental Impact Statement (DEIS) to analyze the direct, indirect and cumulative effects of constructing and operating the proposed Rueter-Hess Reservoir near the town of Parker, in Douglas County, Colorado. The project proponent is the Parker Water and Sanitation District (District). The basic purpose of the Proposed Action is to provide a safe, adequate and sustainable municipal water supply to the District, which is capable of meeting peak demands within the District's currently zoned boundary for the next 50 years. The construction of the proposed project would result in permanent impacts to 6.7 acres of wetlands and 5 miles of other waters of the United States, and would require a Section 404 permit.

The DEIS was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Corps' regulations for NEPA implementation (33 Code of Federal Regulations (CFR) parts 230 and 325, appendices B and C). The Corps, Omaha District; Regulatory Branch is the lead Federal agency responsible for the DEIS and information contained in the DEIS serves as the basis for a decision regarding issuance of the Section 404 permit. It also provides information for local and state agencies having jurisdictional responsibility for affected resources.

DATES: Written comments on the DEIS will be accepted on or before April 8, 2002. Comments should be submitted to Rodney Schwartz, Corps—Omaha District (address below). Oral and/or written comments may also be presented at the Public Hearing to be held at 7 p.m. on March 12, 2002 at the High Prairie Farm Equestrian Center, 7522 Pinery Parkway South in Parker, Colorado.

ADDRESSES: Copies of the DEIS will be available for review at:

1. Parker Library, 10851 South Crossroad Drive, Parker, CO 80134.
2. Parker Water and Sanitation District, 19801 East Mainstreet, Parker, CO 80138.

3. U.S. Army Corps of Engineers, Denver Regulatory Office, 9307 South Platte Canyon Road, Littleton, CO 80128.

Copies can also be obtained from the Corps' third-party contractor, URS Corporation, attention: Paula Daukas, 8181 East Tufts Avenue, Denver, CO 80237; 303-740-3896; Fax 303-694-3946, paula_daukas@urscorp.com

FOR FURTHER INFORMATION CONTACT:

Rodney Schwartz, Senior Project Manager, U.S. Army Corps of Engineers, Omaha District—Regulatory Branch, 12565 West Center Road, Omaha, Nebraska 68144-3869, Phone: 402-221-4143, Fax: 402-221-4939, rodney.j.schwartz@usace.army.mil.

SUPPLEMENTARY INFORMATION: The purpose of the DEIS is to provide decision makers and the public with information pertaining to the Proposed Action, and to disclose environmental impacts and identify mitigation measures to reduce impacts. The DEIS analyzes the Parker Water and Sanitation District's proposal to construct and operate Rueter-Hess Reservoir and the associated water delivery system. The proposed reservoir would be located in Douglas County, Colorado approximately 12 miles southeast of Denver and 3 miles southwest of the town of Parker. The reservoir would be located on Newlin Gulch with a diversion structure along Cherry Creek. The project would include a 16,200 acre-foot (AF) reservoir inundating 470 acres, a 5,300-foot long and 135-foot high dam, two pipelines, a water treatment plant and booster pump station, a diversion structure along Cherry Creek with a pump station, and 16 Denver Basin extraction wellfields.

The proposed water supply system would rely upon renewable sources of water, including the capability of capturing, storing, and reusing seasonal high flows in nearby Cherry Creek, and Advanced Wastewater Treatment (AWT) return flows currently discharged into Cherry Creek. The water from the reservoir would be used primarily to help satisfy the District's peak seasonal demands, thereby reducing the loading on nonrenewable Denver Basin aquifer groundwater. The reservoir is needed by the District to provide operational flexibility to ensure a long-term, reliable water supply.

In addition to the Proposed Action, the DEIS analyzes two alternatives: (1) The Reduced Capacity Reservoir (11,200 AF), and (2) the No Action. The Reduced Capacity Reservoir would be constructed along the same dam axis as the Proposed Action, but with a smaller storage capacity. The dam would be

5,000 feet long, 123 feet high, and inundate approximately 370 acres. A total of 17 Denver Basin wellfields would be developed, one more wellfield than the Proposed Action. The diversion facilities along Cherry Creek would be the same as for the Proposed Action. The No Action Alternative assumes that the Rueter-Hess Reservoir would not be built and that the District would continue with their current operational plan relying upon deep groundwater well fields and alluvial Cherry Creek wellfields to supply their water. It is estimated that 71 Denver Basin wellfields would be required to supply the area within the District's legal boundary.

Rodney J. Schwartz,

Senior Project Manager, Regulatory Branch.

[FR Doc. 02-4177 Filed 2-21-02; 8:45 am]

BILLING CODE 3710-62-P

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Everglades Agricultural Area (EAA) Storage Reservoirs—Phase 1 Project, Central and Southern Florida (C&SF) Project, Comprehensive Review Study**

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), intends to prepare an integrated Project Implementation Report (PIR) and DEIS for the EAA Storage Reservoirs Project. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperating agency for this DEIS. The lack of water storage in the Everglades system, particularly during wet periods, has led to ecological damage of Lake Okeechobee's littoral zone and damaging regulatory releases to the St. Lucie and Caloosahatchee estuaries. Conversely, in dry periods, this lack of storage has led to water supply shortages for both the human and natural environment. The EAA Storage Reservoirs—Phase 1 is one of the initially authorized projects of the C&SF Comprehensive Review Study (Restudy). The integrated PIR will evaluate providing 240,000 acre-feet of storage on existing Federally- and State-owned lands and increasing the canal conveyance of the Miami, North New River, Bolles, and Cross Canals.

FOR FURTHER INFORMATION CONTACT: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, PO Box 4970, Jacksonville, Florida 32232-0019; Attn: Ms. Janete Cushing, or by telephone at 904-232-2259.

SUPPLEMENTARY INFORMATION: a.

Authorization: Section 601 of the Water Resources Development Act of 2000 (Public Law 106-541) authorizes the implementation of the EAA Storage Reservoirs—Phase 1 Project.

b. *Study Area:* The study area is the Everglades Agricultural Area, approximately 500,000 acres immediately south of Lake Okeechobee, and within sections of Palm Beach and Hendry Counties.

c. *Project Scope:* The scope includes conducting a watershed assessment of the study area and developing alternative plans for optimizing the design of water storage reservoirs and increasing the canal conveyance of the Miami, North New River, Bolles, and Cross Canals. The watershed assessment will refine the Restudy water budgets for the project components and provide peak flows for canal conveyance improvement requirements. The evaluation of the alternative and selection of a recommended plan will be documented in the PIR. The alternative plans will be reviewed under provisions of appropriate laws and regulations, including the Endangered Species Act, Fish and Wildlife Coordination Act, Clean Water Act, and Farmland Protection Policy Act.

d. *Preliminary Alternatives:* The Talisman and Woerner land acquisition, composed of 3 parcels totaling approximately 49,900 acres, and the design of Stormwater Treatment Area-3/4 determine the footprint of the reservoirs. Further plan formulation will determine the configuration and sizing of the reservoirs, as well as the design of the levees and pump stations.

e. *Issues:* The EIS will address the following issues: impacts to aquatic, wetland, and upland ecosystems; water flows; socio-economic impacts on agriculture and other water supply dependent business; hazardous and toxic waste; water quality; flood protection; the impacts of land acquisition on the tax base; aesthetics and recreation; fish and wildlife resources, including protected species; cultural resources; and other impacts identified through scoping, public involvement, and interagency coordination.

f. *Scoping:* A scoping letter and multiple public workshops will be used to invite comments on alternatives and issues from Federal, State, and local

agencies, affected Indian tribes, and other interested private organizations and individuals.

g. *DEIS Preparation:* The integrated PIR, including a DEIS, is currently scheduled for publication in November 2003.

Dated: February 6, 2002.

George M. Strain,

Chief, Planning Division.

[FR Doc. 02-4183 Filed 2-21-02; 8:45 am]

BILLING CODE 3710-AJ-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 23, 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: February 15, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of English Language Acquisitions

Type of Review: New.

Title: Descriptive Study of Immigrant Education Programs.

Frequency: Semi-Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 555.

Burden Hours: 317.

Abstract: The goals of the Descriptive Study of Immigrant Education are to provide information about: (1) The types of programs and services for immigrant children and youth and best practices for serving this population; (2) the degree to which immigrant students are meeting state standards; and (3) the way in which services are paid for and provided. The study will include case studies of 15 districts that represent diverse circumstances and populations, and a range of approaches to serving recent immigrant children and youth.

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 or to the e-mail address vivian.reese@ed.gov. 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. 02-4224 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests**

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 22, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 23, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Karen_F.Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: February 19, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Early Reading First Applicant Eligibility.

Abstract: The Early Reading First program will provide grants to eligible local educational agencies (LEAs) and public and private organizations located in those LEAs to transform early education programs into centers of excellence to help young at-risk children achieve the language, cognitive, and early reading skills they need to succeed when they enter kindergarten. This notice sets eligibility standards and thresholds for LEAs on poverty, achievement, and school improvement status for the FY 2002 grant competition, and requests that States provide LEA data on achievement and schools in school improvement for the Department to use in identifying eligible LEAs.

Additional Information: The Department is seeking OMB approval on or before February 22, 2002, for an emergency paperwork collection for this information from the States for the Early Reading First program. This request is based upon the unanticipated delay in enactment of the No Child Left Behind Act, the Administration's interest in awarding Early Reading First grants as soon as possible, and the public harm that otherwise might occur with delaying grant awards past December, 2002.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 156.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202-4651, vivian.reese@ed.gov, or should be electronically mailed to the internet address OCIO_RIMG@ed.gov, or should be faxed to 202-708-9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776-7742 or via her internet address Kathy.Axt@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. 02-4376 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[DE-PS07-02ID14264]

Enhanced Geothermal Systems (EGS)

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Competitive Financial Assistance Solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications for the development of Enhanced Geothermal Systems (EGS) to expand production from geothermal resources. For purposes of this solicitation, EGS are defined as engineered reservoirs created to extract heat from economically unproductive geothermal resources. The knowledge gained from this work will result in new and improved technology that will help meet the goals of the Geothermal Program. EGS projects are sought to improve reservoir productivity and lifetime through the application of either conventional or novel engineering techniques. The objective of this solicitation is to bring new geothermal resources into production using Enhanced Geothermal Systems for the purpose of generating electric power.

DATES: The issuance date of Solicitation Number DE-PS07-02ID14264 is on or about February 14, 2002. The SF 424, and the technical application must have an IIPS transmission time stamp of not later than 5:00 p.m. ET on Monday, March 31, 2002.

ADDRESSES: Completed applications are required to be submitted via the U. S. Department of Energy Industry Interactive Procurement System (IIPS) at the following URL: <http://e-center.doe.gov>.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dahl, Contract Specialist at dahlee@id.doe.gov, facsimile at (208) 526-5548, or by telephone at (208) 526-7214.

SUPPLEMENTARY INFORMATION:

Approximately \$10,000,000 in federal funds will be made available over the next five to six fiscal years. Of that amount, about \$500,000 is expected to be available in fiscal year 2002 to fund one to two awards for the first budget year of the cooperative agreements stemming from this solicitation. DOE anticipates that Phase One of the award will run for approximately two budget periods and will include feasibility assessment, detailed conceptual design, field studies, and environmental approvals. Phase Two will involve construction and testing of the EGS. Phase Three is to construct permanent surface facilities including a power plant. Phase Four is to monitor reservoir and plant performance. During each phase, the Awardee must provide minimum non-federal cost share in the amounts specified as follows: Phase One—20%; Phase Two—40%; Phase Three—80%; Phase Four—100%. Only those who own, have valid leases, or legal access to unproductive geothermal properties in the U. S. and are capable of providing the necessary cost-share may submit proposals. Third party consulting groups may be part of the project team, but they are not eligible to submit proposals. National laboratories will not be eligible for an award under this solicitation. The solicitation is available in its full text via the Internet at the following address: <http://e-center.doe.gov>. The statutory authority for this program is the Department of Energy Organization Act of 1977, Public Law 95-238, Section 207, Public Law 101-218. The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087, Renewable Energy Research and Development.

Issued in Idaho Falls on February 14, 2002.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 02-4254 Filed 2-21-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site.

The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, March 6, 2002, 6 p.m.—9 p.m.

ADDRESSES: Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT:

Kelly Kozeliski, U.S. Department of Energy, Office of Environmental Management, PO Box 98518, Las Vegas, Nevada 89193-8513, phone: 702-295-2836, fax: 702-295-5300, e-mail kozeliskik@nv.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. CAB members will discuss prioritization of environmental management projects for the FY 2004 federal budget submittal.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kelly Kozeliski, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kelly Kozeliski at the address listed above.

Issued at Washington, DC, on January 19, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02-4253 Filed 2-21-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP02-1-000]

Bowers Drilling Company, Inc.; Notice of Petition for Adjustment

February 14, 2002.

Take notice that on January 3, 2002, Bowers Drilling Company, Inc. (Bowers) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),¹ requesting relief from its obligation to pay Kansas ad valorem tax refunds to Williams Gas Pipelines Central, Inc. (Williams) for the period from 1983 to 1988, as required by the Commission's September 10, 1997 order in Docket No. RP97-369-000, et al.² Bowers' petition is on file with the Commission and open to public inspection.

Bowers' request for relief is based on a March 17, 1992 take-or-pay settlement agreement with Williams. Bowers asserts the settlement agreement includes a release from all claims regarding its contracts with Williams, for all periods prior to 1992, including any Federal Energy Regulatory Commission claims arising out of, or in conjunction with, or relating to its contracts with Williams. In view of this, and because the claim for Kansas ad valorem tax reimbursement was taken into account when Bowers agreed to the settlement amount, Bowers contends that granting relief is warranted.

Any person desiring to be heard or to protest said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.1105 and 385.1106). 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

¹ 15 U.S.C. § 3142(c) (1982).

² 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

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.,

Deputy Secretary.

[FR Doc. 02-4249 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-77-000]

Dominion Transmission, Inc.; Notice of Application

February 14, 2002.

Take notice that on January 30, 2002, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, WVA, 26301, tendered for filing an abbreviated application for a certificate of public convenience and necessity pursuant to section 7(b) of the Natural Gas Act (NGA) to abandon certain X-Rate Schedules in DTI's FERC Gas Tariff,

First Revised Volume No. 2, all as more fully set forth in the application, which is on file and open to public inspection. The application may be viewed on the Web at www.ferc.gov using the "RIMS" link, select "Docket #" from the RIMS menu and follow the instructions (call (202) 208-2222 for assistance).

DTI asserts that no abandonment of any facility is proposed. DTI proposes to abandon ten service agreements under its FERC Gas Tariff, First Revised Volume No. 2. The information in the table below summarizes each individual service agreement:

X-rate schedule number	Customer name	Docket number of original certificate authorization	Type of service rendered and date terminated
X-20	Brooklyn Union Gas Company	CP76-265-000	Transportation Agreement terminated July 1, 1995.
X-21	Brooklyn Union Gas Company and Transcontinental Gas Pipe Line Corporation.	CP76-265-000	Transportation and Exchange will terminate effective date of abandonment Order.
X-23	Pittsburgh Tube Company	CP76-260-000	Transportation Agreement expired after primary term of 15 years.
X-29	Transcontinental Gas Pipe Line Corporation.	CP80-44-000	Transportation Agreement ended November 1, 1982.
X-43	Texas Eastern Transmission Corporation.	CP83-386-000	Storage Agreement ended April 15, 1986.
X-73	Kamine/Besicorp South Glens Falls, L.P.	CP89-638-000	Transportation Agreement ended June 30, 1998.
X-75	Sterling Power Partners, L.P	CP89-638-000	Transportation Agreement ended June 30, 1998.
X-80	Indeck-Osewgo Limited Partnership.	CP89-712-000	Transportation Agreement ended June 30, 1998.
X-100	Seneca Power Partners, L.P	CP91-2989-000	Transportation Agreement ended June 30, 1998.
X-102	Indeck-Illion Limited Partnership ...	CP89-638-005 and CP89-638-007.	Transportation Agreement ended June 30, 1998.

Any question regarding this application may be directed to Mr. William P. Saviers, Esquire, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia, 26301, at (304) 627-3340.

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, on or before March 7, 2002, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

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.

Take notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of matter, will determine whether granting the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for DTI to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-4248 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-27-000]

Florida Gas Transmission Company; Notice of Site Visit

February 15, 2002.

On February 25 through 28, 2002, the staff of the Office of Energy Projects (OEP) will conduct a pre-certification

site visit of Florida Gas Transmission Company's (FGT) proposed route and potential alternative routes for the Phase VI Expansion Project in Alabama and Florida.

All interested parties may attend. The areas will be inspected by automobile. Representatives of FGT will accompany the OEP staff. Anyone interested in participating in the site visits must provide their own transportation. For additional information, contact the Commission's Office of External Affairs at (202) 208-1088.

Magalie R. Salas,

Secretary.

[FR Doc. 02-4244 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP02-2-000]

Dale P. And/or Avril Jewett; Notice of Petition for Adjustment

February 14, 2002.

Take notice that on January 3, 2002, Dale P. and/or Avril Jewett (the Jewetts) filed a petition for adjustment under section (c) of the Natural Gas Policy Act of 1978 (NGPA),¹ requesting to be relieved of its obligation to pay Kansas ad valorem tax refunds to Williams Gas Pipeline Central, Inc. for the period from 1983 to 1988, as required by the Commission's September 10, 1997 order in Docket No. RP97-369-000, et al.² The Jewetts' petition is on file with the Commission and open to public inspection.

The Jewetts assert that paying the refund would constitute a burden since they are retired and are living on a fixed income. Dale Jewett was forced to retire in 1992 from Gould Oil Company Inc. And their small working interest ownership in the properties subject to the Commission's order was intended to be "in lieu" of a retirement plan. They state they receive only a very small gross revenue every few months that rarely meets the operating costs assessed by Gould.

Any person desiring to be heard or to protest said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.1105 and 385.1106). 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.,

Deputy Secretary.

[FR Doc. 02-4250 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-54-000]

Northern Natural Gas Company; Notice of an Application

February 15, 2002.

Take notice that on December 18, 2001, Northern Natural Gas Company (Northern), filed pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), requesting permission and approval to abandon service under an individually certificated agreements, all as more fully set forth in the joint application which is on file with the Commission, and open to public inspection.

Specifically, Northern, proposes to abandon Rate Schedules X-90 to North Texas Gas Company; X-81 to Getty Oil Company; X-52 to Panhandle Eastern Pipe Line Company; X-29 to BP America Inc.; and X-16 to West Texas Gas, all contained in its FERC Gas Tariffs, Original Volume No. 2. The agreements have terminated pursuant to its terms.

Any questions regarding this application should be directed to Keith L. Petersen, Director, Certificates and Reporting for Northern, 1111 South 103 Street, Omaha, Nebraska 68124, or Bret

Fritch, Senior Regulatory Analyst, at (402) 398-7140.

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 Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed by March 8, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceedings. 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. 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 7 and 15 of the National Gas Act and the Commission's Rules of Practice and Procedures, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the Abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or the Commission on its own motion believe that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Magalie R. Salas,

Secretary.

[FR Doc. 02-4245 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

¹ 15 U.S.C. section 3142(c) (1982).

² 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1988).

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. CP02-36-001]****Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff**

February 14, 2002.

Take notice that on February 4, 2002, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective on the dates indicated:

Effective January 23, 2002

Eighth Revised Sheet No. 1
1st Rev 39th Revised Sheet No. 21
Second Revised Sheet No. 150
First Revised Sheet No. 151
Third Revised Sheet No. 227C
Sixth Revised Sheet No. 228
Second Revised Sheet No. 228A
Eleventh Revised Sheet No. 229
Fourth Revised Sheet No. 229A
Fifth Revised Sheet No. 230A
Fourth Revised Sheet No. 247
Seventh Revised Sheet No. 252

Effective February 1, 2002

Substitute Fortieth Revised Sheet No. 21

Williston Basin states that the tariff sheets comply with the Commission's January 23, 2002 order, granting Williston Basin's application to abandon the transportation service provided to Shell Western E&P, Inc. under Rate Schedule T-5 as well as Rate Schedule T-5 in its entirety. Such order required Williston Basin to file tariff sheets in compliance with Part 154 of the Commission's Regulations.

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, respectively, of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 25, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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.,*Deputy Secretary.*

[FR Doc. 02-4247 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 3494-058, Pennsylvania]****Allegheny No. 6 Hydro Partners; Notice of Availability of Final Environmental Assessment**

February 14, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application to install 12-inch-high flashboards at the Allegheny Lock and Dam No. 6 Hydroelectric Project and has prepared a Final Environmental Assessment (FEA). The hydroelectric project is located at a U.S. Army Corps of Engineers dam (Lock and Dam No. 6) on the Allegheny River, near the town of Ford City, in Armstrong County, Pennsylvania. No other federal or tribal lands are occupied by the hydroelectric project.

The Commission has begun a proceeding to determine if reserved authority in article 17 of the license should be used to require 12-inch-high flashboards at Lock and Dam No. 6. Flashboards can be used to increase water levels in Pool No. 6 to more closely resemble pre-hydroelectric conditions. The proceeding is in response to concerns raised by the Pennsylvania Fish and Boat Commission about the impacts of project-induced lower water levels on recreational boating in Pool No. 6. The FEA contains Commission staff's analysis of the potential environmental impacts of installing 12-inch-high flashboards and concludes that flashboards should not be installed at Lock and Dam No. 6 because of adverse impacts to wetlands.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link—select "P-3494" and follow the

instructions (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,*Deputy Secretary.*

[FR Doc. 02-4251 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Technical Conference Organization**

February 14, 2002.

In the matter of Docket Nos. RM01-12-000, RT01-2-001, RT-2-002, RT01-2-003, RT01-10-000, RT01-15-000, RT01-34-000, RT01-35-000, RT01-67-000, RT01-74-000, RT01-75-000, RT01-77-000, RT01-85-000, RT01-86-000, RT01-86-001, RT01-86-002, RT01-87-000, RT01-88-000, RT01-94-000, RT01-95-000, RT01-95-001, RT01-95-002, RT01-98-000, RT01-99-000, RT01-99-001, RT01-99-002, RT01-99-003, RT01-100-000, RT01-101-000, EC01-146-000, ER01-3000-000, RT02-1-000, EL02-9-000, EC01-156-000, ER01-3154-000, and EL01-80-000

Electricity Market Design and Structure, PJM Interconnection, L.L.C.,

Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, UGI Utilities Inc., Allegheny Power, Avista Corporation, Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company, Southwest Power Pool, Inc., Avista Corporation, Bonneville Power Administration, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company, GridFlorida LLC, Florida Power & Light Company, Florida Power Corporation, Tampa Electric Company, Carolina Power & Light Company, Duke Energy Corporation, South Carolina Electric & Gas Company, GridSouth Transco, LLC, Entergy Services, Inc., Southern Company Services, Inc., California Independent System Operator Corporation, Bangor Hydro-Electric Company, Central Maine Power Company, National Grid USA, Northeast Utilities Service Company, The United Illuminating Company, Vermont

Electric Power Company, ISO New England Inc., Midwest Independent System Operator, Alliance Companies, NSTAR Services Company, New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Orange & Rockland Utilities, Inc., Rochester Gas & Electric Corporation, PJM Interconnection, L.L.C., Regional Transmission Organizations, Regional Transmission Organizations, International Transmission Company, DTE Energy Company, Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, Tucson Electric Power Company, WestConnect RTO, LLC, Alliant Energy Corporate Services, Inc., MidAmerican Energy Company, Xcel Energy Services, Inc., TRANSLink Transmission Company, LLC, National Grid USA

Notice of Technical Conference Organization

As announced in the Notice of Technical Conference issued on February 5, 2002, Commission staff will hold a technical conference on February 19, 2002, to discuss the allocation of regional transmission organization (RTO) characteristics and functions between separate organizations within an RTO region.¹ Participants also may address the allocation of responsibility for performing other wholesale market functions. This notice provides further organizational details and the conference agenda.

The conference will start at approximately 9 a.m. and will adjourn at about 4:45 p.m. It is scheduled to take place at the Commission's offices, 888 First Street, N.E., Washington, DC 20426, in the Commission Meeting Room on the second floor. The agenda is appended to this notice as Attachment A.

The conference is open for the public to attend, and registration is not

required. Members of the Commission may attend the conference and participate in the discussions. We ask participants to focus on the following four questions:

(1) If the functions and characteristics specified in Order No. 2000 are shared or coordinated among separate organizations within an RTO, how would you suggest that these functions be apportioned? Please use the matrix appended to this notice as Attachment B as a guide.

(2) From the perspective of either engineering or economic efficiency, is it more appropriate to have certain functions administered over as large a region as possible? Conversely, are there certain functions which can be effectively administered at a sub-regional level?

(3) As we try to evaluate how functions might be apportioned, is it useful to distinguish between functions that relate solely to operating and administering the transmission grid and functions that relate more to operation and oversight of markets for trading wholesale power and energy?

(4) Is the business model or incentive structure proposed for an organization relevant to the question of which functions it should undertake?

Any interested party may file comments in Docket No. RM01-12-000 that address the issues above or follow up on the conference discussions. It is not necessary to re-file comments or file summaries of comments already filed with the Commission. Commenters are asked to specifically identify the region or regions, if any, that their comments address, and to cross-file their comments in any appropriate RT dockets. Comments must be filed no later than March 12, 2002.

The Capitol Connection offers all open and special Commission meetings held at the Commission's headquarters live over the Internet, as well as via telephone and satellite. For a fee, you can receive these meetings in your office, at home, or anywhere in the world. To find out more about the Capitol Connection's live Internet, phone bridge, or satellite coverage, contact David Reininger or Julia Morelli at (703) 993-3100, or visit www.capitolconnection.gmu.edu. The Capitol Connection also offers FERC open meetings through its Washington, D.C.—area television service.

Additionally, live and archived audio of FERC public meetings are available for a fee via National Narrowcast Network's Hearings.com (sm) and Hearing-On-The-Line (r) services. Interested parties may listen to the conference live by phone or web.

Hearings.com audio will be archived immediately for listening on demand after the event is completed. Call (202) 966-2211 for further details.

Those interested in obtaining transcripts of the conference need to contact Ace Federal Reporters at (202) 347-3700 or (800) 336-6646. Anyone interested in purchasing videotapes of the meeting should call VISCOM at (703) 715-7999.

Other questions about the conference program should be directed to: Diane Bernier, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219-2886, diane.bernier@ferc.gov.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-4252 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

Regulations Governing Off-the-Record Communications; Public Notice

February 15, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests

¹ The RTO characteristics are: (1) Independence; (2) scope and regional configuration; (3) operational authority; and (4) short-term reliability. RTO functions include: (1) Tariff administration and design; (2) congestion management; (3) parallel path flow; (4) ancillary services; (5) OASIS, total transmission capacity and available transmission capacity; (6) market monitoring; (7) planning and expansion; and (8) interregional coordination. See Regional Transmission Organizations, Order No. 2000, FERC Stats. and Regs. 31,089 (1999), *order on reh'g*, Order No. 2000-A, FERC Stats. And Regs. 31,092 (2000), *aff'd*, Public Utility District No. 1 of Snohomish County, Washington v. FERC, 272 F.3d 607 (D.C. Cir. 2001). See also Order Providing Guidance on Continued Processing of RTO Filings, 97 FERC ¶ 61,146 at 61,633 (2001).

only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the

decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file

with the Commission and are available for public inspection. The documents may 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).

Take note that this notice will now be issued by the Commission on a weekly rather than bi-weekly basis.

Docket No.	Date filed	Presenter
Exempt:		
1. CP01-361-000	02-11-02	Susan Smillie.
2. CP01-384-000	02-11-02	Paul Campagnola.
3. Project No. 2016-044	02-13-02	Brian J. Brown.
4. CP01-361-000	02-13-02	Susan Smillie.
5. CP01-361-000	02-13-02	Alynda Foreman.
6. CP01-384-000	02-13-02	Sen. Melodie Peters (Conn.).
7. CP01-384-000	02-14-02	U.S. Rep. Felix J. Grucci (N.Y.).

Magalie R. Salas,

Secretary.

[FR Doc. 02-4246 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6626-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D-AFS-J65357-MT Rating EC2, White Pine Creek Project, Timber Harvest, Prescribe Fire Burning, Watershed Restoration and Associated Activities, Implementation, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT.

Summary: EPA expressed environmental concerns about increased peak flow from proposed timber harvest and impacts to the threatened bull trout. A biological assessment for the bull trout should have been included in the DEIS. EPA believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

ERP No. D-FRC-B05192-ME Rating EC2, Presumpscot River Projects, Relicensing of Five Hydroelectric Projects for Construction and Operation, Dundee Project (FERC No. 2942); Gambo Project (FERC No. 2931); Little Falls Project (FERC No. 2932); Mallison Falls Project (FERC No. 2941) and Saccarappa Project (FERC No. 2897), Cumberland County, ME.

Summary: EPA expressed environmental concerns about the absence of fish passage measures for anadromous fish for portions of the project, and that the EIS understated the effect of dam removal in combination with adequate fish passage on restoration of aquatic resources/water quality of the river. EPA also believes that FERC recommended bypass flows are too low and should be raised year round to increase habitat for fish, aquatic invertebrates and resident fish so water quality standards are met.

ERP No. DS-AFS-J65295-MT Rating EC2, Clancy-Unionville Vegetation Manipulation and Travel Management Project, Updated and New Information concerning Cumulative Effects and Introduction of Alternative F, Clancy-Unionville Implementation Area, Helena National Forest, Helena Ranger District, Lewis and Clark and Jefferson Counties, MT.

Summary: EPA expressed environmental concerns regarding the levels of road rehabilitation. EPA recommended that additional information should be presented regarding increased road rehabilitation and consistency of proposed actions with State TMDL development.

ERP No. DS-AFS-L65376-OR Rating EC2, Silvies Canyon Watershed Restoration Project, Additional Information concerning Ecosystem

Health Improvements in the Watershed, Grant and Harney Counties, OR.

Summary: EPA expressed environmental concerns with impacts to air quality and concerns about insufficient disclosure of tribal consultation and coordination.

Final EISs

ERP No. F-FRC-B03012-00, Phase III/ Hubline Project, Construction and Operation a Natural Gas Pipeline, Maritimes and Northeast Pipeline (Docket No. CP01-4-000), Algonquin Gas Transmission (Docket No. CP01-5-000) and Texas Eastern Transmission (Docket No. CP01-8-000), MA and CT.

Summary: EPA expressed environmental concerns about impacts to water supply sources and about mitigation associated with the project. EPA also expressed concerns about NEPA process related issues.

ERP No. F-FTA-B59001-CT, New Britain—Hartford Busway Project, Proposal to Build an Exclusive Bus Rapid Transit (BRT) Facility, Located in the Towns/Cities of New Britain, Newington, West Hartford and Hartford CT.

Summary: EPA expressed a lack of environmental objections to the project and applauded the FTA/CTDOT decision to construct a multi-use path as part of the project and continues to suggest that the vehicles on the busway should use alternative fuel or be cleaner diesel vehicles that use particulate filters. EPA also encouraged FTA/CTDOT to commit resources to support transit oriented development in the vicinity of the busway stations.

ERP No. F-USN-B11024-MA, South Weymouth Naval Air Station, Disposal and Reuse, Norfolk and Plymouth Counties, MA.

Summary: EPA continues to have environmental concerns about impacts of the project related to traffic/air quality, water supply, wastewater treatment and land use and associated mitigation. EPA continued to encourage the Navy to consider mechanisms (smart growth and others) to determine whether the base redevelopment could occur in a manner that would result in fewer environmental impacts.

Dated: February 19, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-4270 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6626-7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or www.epa.gov/oeca/ofa. Weekly receipt of Environmental Impact Statements filed February 11, 2002 through February 15, 2002 pursuant to 40 CFR 1506.9.

EIS No. 020061, Final EIS, SFW, WA, Icicle Creek Restoration Creek Project, To Protect and Aid in the Recovery of Threatened and Endangered Fish, Leavenworth National Fish Hatchery (LNFH), COE Section 404 and NPDES Permits, Leavenworth, WA. Wait Period Ends: March 25, 2002, Contact: Greg Pratschner (509) 548-7641.

EIS No. 020062, Draft Supplement, FHW, VA, U.S. Route 29 Bypass Improvement, between Route 250 Bypass in Charlottesville and the South Rivanna River in Albemarle, Updated Information, To consider the Effects of the Selected Alternative on the South Fork Rivanna River Reservoir and its Watershed, US COE Section 404 Permit, Albemarle County, VA, Comment Period Ends: April 16, 2002, Contact: Edward S. Sundra (804) 775-3338.

EIS No. 020063, Draft EIS, FHW, AR, Springdale Northern Bypass Project, US Highway 412 Construction, Funding, NPDES Permit, Benton and Washington Counties, AR, Comment Period Ends: April 15, 2002, Contact: Randal Looney (501) 324-5625.

EIS No. 020064, Final EIS, USN, CA, Point Molate Property Naval Fuel Depot (NFD) for the Disposal and Reuse, Implementation, Fleet and Industrial Supply Center, City of Richmond, Contra Costa County, CA, Wait Period

Ends: March 25, 2002, Contact: Larry Dean (619) 532-0936.

EIS No. 020065, Draft EIS, FAA, PA, MD, VA, WV, DC, Potomac Consolidated Terminal (PCT) Radar Approach Control Facility (TRACON) Airspace Redesign, in Baltimore-Washington Metropolitan Area, Newly Consolidated (TRACON), Improved Aircraft Performance, and Emerging ATC Technologies, PA, MD, DE, VA, WV and DC, Comment Period Ends: May 28, 2002, Contact: William Carver (800) 762-9531.

EIS No. 020066, Draft EIS, COE, CO, Rueter-Hess Reservoir Project, Construction and Operation, Proposed Water Supply Reservoir and Off-Stream Dam, COE Section 404 Permit, Endangered Species Act (Section &) and Right-of-Way Use Permit, Located on Newlin Gulch along Cherry Creek, Town of Parker, Douglas County, CO, Comment Period Ends: April 08, 2002, Contact: Rodney J. Schwartz (402) 221-4143.

EIS No. 020067, Final EIS, USN, FL, Renewal of Authorization to Use Pinecastle Range, Continue Use of the Range for a 20-Year Period, Special Use Permit Issuance, Ocala National Forest, Marion and Lake Counties, FL, Wait Period Ends: March 25, 2002, Contact: Darrell Molzan (843) 820-5796.

EIS No. 020068, Final EIS, FRC, CA, Big Creek No. 4 Hydroelectric Project, Issuing New License, (FERC Project No. 2017), San Joaquin River Basin, Sierra National Forest, Fresno, Madera and Tulare Counties, CA, Wait Period Ends: March 25, 2002, Contact: John Ramer (202) 219-2833.

This document is available on the Internet at: <http://rimsweb1.ferc.gov>.

EIS No. 020069, Draft EIS, FTA, TX, Southeast Corridor Light Rail Transit Project, Construction and Operation, Funding, NPDES Permit and COE Section 404 Permit, Mobility 2025 Plan Update, Dallas Area Rapid Transit (DART), the City of Dallas, Dallas County, TX, Comment Period Ends: April 08, 2002, Contact: Jesse Balleza (817) 860-9663.

EIS No. 020070, Draft EIS, FTA, NV, Las Vegas Resort Corridor Project, Transportation Improvements, Funding, City of Las Vegas, Clark County, NV, Comment Period Ends: April 08, 2002, Contact: Ray Sukys (415) 744-3115.

EIS No. 020071, Draft EIS, BPA, WA, OR, Wallula Power Project and Wallula-McNary Transmission Line Project, Construction and Operation, 1300 megawatt(MW) Natural Gas Fired Combustion Gas Turbine Facility and a new 500-kilovolt(kV) Transmission Line and Upgrade of the McNary Substation, US COE Section 10 and 404 Permits, Walla-Walla Co., WA and Umatilla Co.,

OR, Comment Period Ends: April 11, 2002, Contact: Donald L. Rose (503) 230-3796.

This document is available on the Internet at: <http://www.efsec.wa.gov>.

Dated: February 19, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance, Office of Federal Activities.

[FR Doc. 02-4271 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7148-3]

Availability of FY 00 Grant Performance Reports for States of Tennessee and Georgia, and the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA performed end-of-year evaluations of all state air pollution control programs. Evaluations for the Commonwealth of Kentucky, and the States of Georgia and Tennessee are now available for public review. These evaluations were conducted to assess the agencies' performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection. The evaluations for the remainder of the States and local governments were published at an earlier date.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW., Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Gloria Knight, (404) 562-9064, for information concerning the State of Tennessee; or Marie Persinger (404) 562-9048, for information concerning Kentucky and Georgia. They may be contacted at the above Region 4 address.

Dated: February 7, 2002.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 02-4302 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66300; FRL-6826-8]

Notice of Receipt of Requests to Cancel Certain Chromated Copper Arsenate (CCA) Wood Preservative Products and Amend to Terminate Certain Uses of CCA Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from registrants of affected chromated copper arsenate (CCA) products to cancel certain products and to amend to terminate certain uses of other CCA products. These requests were submitted to EPA in February 2002. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon acceptance of these requests, any sale, distribution, or use of products listed in this notice will only be permitted if such distribution, sale, or use is consistent with the terms as described in this notice.

DATES: Comments must be received on or before March 25, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66300 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Bonaventure Akinlosotu, Antimicrobial Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 308, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 605-0653; e-mail: akinlosotu.bonaventure@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of five parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to terminate uses. The third part describes the action taken by this notice. The

fourth part describes the Agency's legal authority for the action announced in this notice. The fifth part proposes existing stocks provisions that the Agency intends to authorize.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use CCA products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP-66300. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public

Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66300 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-66300. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the

information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background of the Receipt of Requests to Cancel and Amend Registrations to Delete Uses

As a result of current and projected market demand and the availability of new generation wood treatment products, the below identified four registrants of CCA products have requested EPA to cancel certain affected products and to amend to terminate uses of the other pesticide registrations of the products identified in this notice (Tables 1 and 2). The letter from Arch Wood Protection, Inc. was dated February 5, 2002; from Chemical Specialties, Inc., dated February 4, 2002; from Osmose, Inc., dated February 6, 2002; and from Phibro-Tech, Inc., dated February 6, 2002. Specifically, the Agency has received a request to cancel two products, and requests to amend other affected end-use and manufacturing-use registrations to terminate all uses of such products with the exception of the treatment of forest products that fall under the American Wood Preservers Association (AWPA)

standards listed as stated below in the text of the requested label amendments.

For affected manufacturing-use products, the label amendments would read as follows:

Effective December 31, 2003, this product may only be used (1) for formulation of the following end-use wood preservative products: ACZA or CCA labeled in accordance with the "Directions for Use" shown below, or (2) by persons other than the registrant, in combination with one or more other products to make: ACZA wood preservative; or CCA wood preservative that is used in accordance with the "Directions for Use" shown below.

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

For affected end-use products, the label amendments would read as follows:

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

In addition, the registrants requested that EPA allow use of the previous (unamended) labels for a period of 60 calendar days from the date on which the particular affected registrant receives EPA's approval of the amendments, and that EPA allow a further amendment by notification on or

before December 1, 2003 to: (1) Delete the use directions in effect prior to these amendments, and (2) to delete the statement "Effective December 31, 2003" from the amended labels approved by EPA. Furthermore, the registrants stated in their letters that they will not amend or withdraw their requests before EPA acts on them. The registrants also intend to notify their customers of the amended labels by certified mail after EPA acts on the request.

The registrants also estimate that during the first year following acceptance of the amendments by EPA, sales of new generation wood treatment products are likely to increase to 15% to 25% of the total average sales during 1999, 2000, and 2001 of the products identified in Tables 1 and 2 for the non-industrial treatment categories subject to these amendments, and are estimated to increase to 60% to 70% of the same total average sales for these treatment categories subject to these amendments during the second year following acceptance of the amendments by EPA. Further, the registrants estimate that during the first year following acceptance of the amendments by EPA, sales of the products identified in Tables 1 and 2 are likely to decrease by 15% to 25% of their total average sales during 1999, 2000, and 2001 for the non-industrial treatment categories subject to the amendments, and are estimated to decrease by 60% to 70% of the same total average sales during 1999, 2000, and 2001 for these treatment categories subject to the amendments during the second year following acceptance of the amendments by EPA.

III. What Action is the Agency Taking?

This notice announces receipt by the Agency under section 6(f)(1) of FIFRA from the four identified registrants of CCA products of requests to cancel two affected products and to amend other affected CCA product registrations to terminate all uses with the exception of the treatment of forest products listed above. The affected products and the registrants making the requests are identified in Tables 1 - 3 below.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES

Registration Number	Product Name
End Use Products 3008-17	K-33-C (72%) Wood Preservative

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES—Continued

Registration Number	Product Name
3008-21	Special K-33 Pre-servative
3008-34	K-33 (60%) Wood Preservative
3008-35	K-33 (40%) Type-B Wood Preservative
3008-36	K-33-C (50%) Wood Preservative
3008-42	K-33-A (50%) Wood Preservative
3008-72	Osmose Arsenic Acid 75%
10465-26	CCA Type-C Wood Preservative 50%
10465-28	CCA Type-C Wood Preservative 60%
10465-32	CSI Arsenic Acid 75%
35896-2	Wood-Last Conc. Wood Preservation AQ 50% Solution CCA-Type A
62190-2	Wolmanac® Concentrate 50%
62190-8	Wolmanac® Concentrate 72%
62190-14	Wolmanac® Concentrate 60%
Manufacturing Use Products 3008-66	Arsenic Acid 75%
10465-32	CSI Arsenic Acid 75%
62190-7	Arsenic Acid 75%

TABLE 2.—REGISTRATIONS WITH REQUESTS FOR CANCELLATION OF PRODUCTS

Registration Number	Product Name
62190-5	WolmanacR Concentrate 70%
62190-11	CCA Type C 50% Chromated Copper Arsenate

Table 3 below includes the names and addresses of record for all registrants of the products in Tables 1 and 2.

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY TERMINATION OF USES AND/OR CANCELLATION OF PRODUCTS

EPA Company No.	Company Name and Address
003008	Osmose, Inc. 980 Ellicott Street Buffalo, NY 14209
010465	Chemical Specialties, Inc. One Woodlawn Green, Suite 250 200 E. Woodlawn Road Charlotte, NC 28217
035896	Phibro-Tech, Inc. One Parker Plaza Fort Lee, NJ 07024
062190	Arch Wood Protection, Inc. 1955 Lake Park Drive, Suite 250 Smyrna, GA 30080

IV. What is the Agency's Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that a pesticide registration of the registrant be canceled or amended to terminate one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Provisions for Disposition of Existing Stocks

In any order issued in response these requests for amendment to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1:

All distribution, sale, and use of existing stocks of affected manufacturing-use and end-use products will be unlawful under FIFRA effective December 31, 2003, except for purposes of shipping such stocks for relabeling or repackaging, export consistent with the requirements of section 17 of FIFRA, or proper disposal, unless such stocks have been relabeled or repackaged in a manner that is consistent with this order.

In any order issued in response to the above-noted a request for cancellation of a product registration, the Agency proposes to not grant any period of time

for disposition of existing stocks of the products for which cancellation was requested as identified or referenced in Table 2.

List of Subjects

Environmental protection, Pesticides and pests

Dated: February 15, 2002.

Frank Sanders,

Director, Antimicrobial Division, Office of Pesticide Programs.

[FR Doc. 02-4306 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7145-7]

Privacy Act of 1974: Republication of Existing System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice; Amendment to notice of privacy act system of records.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the existing Privacy Act system of records.

EFFECTIVE DATES: The proposed amendments will be effective upon publication.

ADDRESSES: Send written comments to Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460; Telephone (202) 260-6131.

SUPPLEMENTARY INFORMATION: This section summarizes the changes to each existing system of records. The summaries focus on alternations in name or function, changes in routine uses, and other major changes. Each summary includes the name of the contact person for the system who provided information for this report.

To the greatest extent possible, the old system numbers have been retained for new systems. Thus, old EPA-1 (Payroll System) remains as EPA-1. In some instances, the system number remains the same even though the name of the system has been updated. Systems number not in current use remain unused under the revisions. There was no old number 6, and there is no new number 6. Numbers for systems proposed for deletion will not be reused. Old number 16, which was used by two existing systems, will not be reused. One old number 16 is obsolete,

and the other is renumbered. New systems and systems that have been substantially revised (e.g., OIG systems) are assigned new numbers beginning with 38.

All revised system notices reflect appropriate changes in location and office name. Routine uses for all systems now refer to the General Routine Uses Applicable to More than One System of Records, and this entailed some revisions. The revisions standardize the sections of most system notices for notification, record access, and contesting record procedures. The description of storage and retrieval policies and practices reflect the use of computer technology as appropriate for each system. The new notices also include appropriate editorial changes.

Dated: October 25, 2001.

Margaret Schneider,

Acting Assistant Administrator, Office of Environmental Information.

General Routine Uses Applicable to More than One System of Records

A. Disclosure for Law Enforcement Purposes

Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information

Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency

Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request

supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget

Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

E. Disclosure to Congressional Offices

Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice

Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof; or
2. Any employee of the Agency in his or her official capacity; or
3. 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
4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives

Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others

Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the

Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints, and Appeals

Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management

Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection with Litigation

Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

EPA-1

SYSTEM NAME:

EPA's Payroll and Personnel System (EPAYS).

SYSTEM LOCATION:

National Computer Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; other EPA offices. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former EPA employees; Surface Transportation Board (formerly the Interstate Commerce Commission, Department of Transportation); and Health and Human Services Public Health Service Commissioned Officers.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

This system contains records relating to pay, cash awards, and leave. This includes, but is not limited to, information such as names, date of birth, social security numbers, home addresses, grade, employing organization, salary, pay plan, number of hours worked, overtime, compensatory time, leave accrual rate, usage, and balances, Civil Service Retirement and Federal Retirement System contributions, including Thrift Savings Plan, FICA withholdings, Federal, state, and city tax withholdings, Federal Employee Group Life Insurance withholdings, Federal Employee Health Benefits withholdings, charitable deductions; allotments to financial organizations, garnishment documents, savings bonds allotments, union dues withholdings, deductions for Internal Revenue Service levies, court ordered child support levies, Federal salary offset deductions, and information on the Leave Transfer Program and the Leave Bank Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 5101 *et seq.*; 5 U.S.C. 5501 *et seq.*; 5 U.S.C. 5525 *et seq.*; 5 U.S.C. 5701 *et seq.*; 5 U.S.C. 6301 *et seq.*; 31 U.S.C. 3512; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

The records are used to administer EPA's pay and leave requirements, including processing, accounting and reporting requirements. (Date of last system revision: 2/1/01).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, J, and K apply to this system. Records may also be disclosed:

1. To the Department of Treasury to issue checks, make payments, make electronic funds transfers, and issue U.S. Savings Bonds.
2. To the Department of Agriculture National Finance Center to credit Thrift Savings Plan deductions and loan payments to employee accounts.
3. To the Department of Labor in connection with a claim filed by an

employee for compensation due to a job connected injury or illness.

4. To the Internal Revenue Service; Social Security Administration; and State and local tax authorities in connection with the withholding of employment taxes.
5. To State Unemployment Office in connection with a claim filed by former employees for unemployment benefits.
6. To the officials of labor organizations as to the identity of employees contributing union dues each pay period and the amount of dues withheld from each employee.
7. To the Office of Personnel Management and to Health Benefit carriers in connection with enrollment and payroll deductions.
8. To the Office of Personnel Management in connection with employee retirement and life insurance deductions.
9. To Combined Federal Campaign in connection with payroll deductions for charitable contributions.
10. To the Office of Management and Budget, and Department of Treasury to provide required reports on financial management responsibilities.
11. To provide information as necessary to other Federal, State, local or foreign agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals. When disclosures are made as part of computer matching programs, EPA will comply with the Computer Matching and Privacy Protection Act of 1988.
12. To the Internal Revenue Service in connection with withholdings for tax levies.
13. To the Social Security Administration and the Department of Health and Human Services to provide information on newly hired employees for child support enforcement Purposes.
14. To the Department of Health and Human Services in connection with the master personnel and payroll files for their Public Health Services Officers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Computer systems, tapes, disks, microfiche and other hard copy formats. Mainframe computers, tapes, and disks are located in Research Triangle Park, North Carolina. Backup tapes are maintained at a disaster recovery site.

RETRIEVABILITY:

Primarily by social security number. Employee name is used as a secondary identifier.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Employee records are retained on magnetic tapes for an indefinite period. Microfiche and manual reports are maintained for varying periods of time, at which time they are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager(s) and Address.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, supervisors, consumer reporting agencies, debt collection agencies, Department of Treasury, and other Federal agencies.

EPA-3**SYSTEM NAME:**

Wellness Program Medical Records.

SYSTEM LOCATION:

Health Unit, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. EPA offers medical services to employees through a national agreement with the Federal Occupational Health Service of the Public Health Service. Most EPA regional offices have a similar arrangement, although a different contractor provides services in one or more regional offices. See the appendix

for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees, contract employees, and EPA visitors requiring or requesting medical attention and EPA employees participating in Stress Lab.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee health records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 7901 *et seq.*

PURPOSE(S):

To document health treatments and related services offered by the Health Unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses F, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files (handwritten or typed cards, forms, files, and EKG graphs); some identifying information is also maintained on a computerized index.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained until an employee leaves EPA. Records are sealed and sent to the Personnel Office for inclusion in the official personnel folder, which is sent to a federal records center. Records may be transferred to a new federal employer.

SYSTEM MANAGER(S) AND ADDRESS:

National Program Branch Chief, Safety, Health and Environmental Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a

record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16. Pursuant to 5 U.S.C. 552a(f)(3), records relating to psychiatric matters may be made available to a record subject through a physician.

RECORD SOURCE CATEGORIES:

Patients, patient's doctors, on approval of patient, accident/incidence reports, family members of patients, and past Federal employer medical records.

EPA-9

SYSTEM NAME:

Freedom of Information Act Request and Appeal File.

SYSTEM LOCATION:

(1) Freedom of Information Section, Office of the Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

(2) EPA Regional Offices. See the appendix for addresses of regional offices.

(3) EPA, Office of General Counsel, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

All persons requesting information or filing appeals under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

A copy of each Freedom of Information Act request received and a copy of all correspondence related to the request, including name, affiliation address, telephone numbers, and other information about a requester. A computerized index includes the name and affiliation of each requester, the request identification number, and the subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 552.

PURPOSE(S):

To respond to FOIA requests and to prepare reports on FOIA activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H and K apply to this system. Records may also be disclosed:

1. To another Federal agency (a) with an interest in the record in connection with a referral of a Freedom of Information Act (FOIA) request to that agency for its views or decision on disclosure, or (b) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence that may be useful to EPA in making required determinations under the FOIA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders. An index is maintained in a computer database.

RETRIEVABILITY:

By name of requester and request identification number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained in accordance with EPA Records Control Schedules.

SYSTEM MANAGER(S) AND ADDRESS AND ADDRESS:

Director, Office of Executive Secretariat, Freedom of Information Section, Office of the Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed

and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Incoming Freedom of Information Act requests and related correspondence from the record subject; EPA offices.

EPA-10

SYSTEM NAME:

EPA Parking Control Office File.

SYSTEM LOCATION:

Transit Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Some regional and other EPA offices may also maintain parking records. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals holding parking permits from EPA, including individuals in existing carpools whose principal member is an EPA employee. Other carpool members may be employed by other Federal agencies or private industry.

CATEGORIES OF RECORDS IN THE SYSTEM:

Permit applications, permit numbers, EPA Form 5160.1, including name, social security number, home and work address, home and work telephone numbers of EPA employees holding parking permits, the name and address of carpool members, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

EPA Administrative Services Manual, Chapter 11, dated April 23, 1975; 41 CFR 101-20.104.

PURPOSE(S):

To manage parking control and the carpool system, and to enforce parking regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General Routine Uses A, E, F, G, H, I, and K apply to this system.

RECORDS MAY ALSO BE DISCLOSED:

1. To the public through a carpool matching system. Disclosures are limited to the name, telephone number, and zip code of carpool members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computer database and in file folders.

RETRIEVABILITY:

Principally by name, permit number, and zip code.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained for three years after the expiration of the contract with the contractor for the system.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Transit Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA-14

SYSTEM NAME:

OPP Time Accounting Information System.

SYSTEM LOCATION:

Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Most current and past Office of Pesticide Programs (OPP) employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

OPP employee names, employee identification numbers, hours worked during each pay period, and work-activity classification for each pay period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Pub. L. 95-396, 92 Stat. 838, 7 U.S.C. 136y.

PURPOSE(S):

The records are used as a data source for management information to produce summary descriptive statistics and analytical studies reflecting the OPP allocations of costs and work-hours by budget decision unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, I, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On time sheets and in a computerized database.

RETRIEVABILITY:

By employee number, name, and organization.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Paper forms are kept for three years and are then shredded. Computer records may be kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Resource Management Staff, Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

See Contesting Record Procedures.

RECORD ACCESS PROCEDURES:

See Contesting Record Procedures.

CONTESTING RECORD PROCEDURES:

Any individual who wants to know whether this system of records contains

a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager(s) and Address. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances. Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA-19

SYSTEM NAME:

EPA Identification Card Record.

SYSTEM LOCATION:

1. Facilities Management and Services Division, Security and Property Management Branch, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460;
2. Regional and other EPA offices. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees and EPA contact employees and grantees who require access to EPA buildings and offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. EPA Form 5110-1, EPA Identification Card Acknowledgment which contains the following information: Name, EPA identification card number, height, weight, color of eyes/hair, date of birth, social security number, position title, grade, EPA office location, signature, date of issuance, and a photograph of the person issued the identification card.
2. EPA Form 1480-39, Official U.S. Government Identification, which contains the following information: Name, social security number, location, date of birth, height, weight, color of eyes/hair, signature, card number, date of issuance and photograph of person issued the identification card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c).

PURPOSE(S):

To issue official U.S. Government Identification cards to EPA employees and EPA contract employees requiring

access to EPA buildings and offices; to maintain a record of all holders of identification cards, for renewal and recovery of expired cards, and to identify lost or stolen cards; to identify Headquarters employees whose names have not been entered in the EPA locator system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage: Older records are stored in file folders in file cabinets. Newer records are stored on a standalone computer database.

RETRIEVABILITY:

By name of the data subject.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are destroyed three months after termination of employment or severance of association with EPA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Chief, Security and Property Management Branch, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460; Other locations: General Services Manager at offices listed in the Appendix.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought.

Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA personnel records.

EPA-20

SYSTEM NAME:

Toxic Substances Control Act Confidential Business Information Records Access System.

SYSTEM LOCATION:

Office of Pollution Prevention and Toxics, Information Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA and other Federal agency employees and Office of Pollution Prevention and Toxics contractor employees who are or have ever been authorized for access to Toxic Substances Control Act Confidential Business Information (TSCA CBI).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains basic identification information such as name, social security number, EPA identification card number, date and place of birth, office of contractor for which the individual works and telephone number. In addition, the system contains information pertinent to TSCA CBI access such as security briefing date, date added to system, date deleted from system and type of access authorized.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

PURPOSE(S):

To maintain a record of those persons cleared for access to TSCA CBI and to maintain the security of TSCA CBI.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To other Federal agencies when they possess TSCA CBI and need to verify clearance of EPA, other Federal agency and EPA contractor employees for access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Current records are maintained in a computer database. Some older records are maintained in hard copy files.

RETRIEVABILITY:

From the computer database by addressing any type of data contained in the database, including name. From alphabetized hard copy files by name.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in safes. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Information in this system is maintained and updated for so long as individuals identified in the system are authorized for access to TSCA CBI.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects provide identification information. EPA personnel add information about dates and type of access authorized.

EPA-22**SYSTEM NAME:**

National Correspondence Tracking and Information Management System.

SYSTEM LOCATION:

Office of the Executive Secretariat, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Most EPA offices, including regional offices, access and maintain some records in this system. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons from the private sector, White House staff, and other persons from the public sector (Federal, state and local) who send correspondence to the Administrator, Deputy Administrator, or to other EPA offices and regions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Controlled correspondence, including name and address of correspondent, copies of incoming letter, EPA's response, and correspondence control number when assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 301.

PURPOSE(S):

To respond to correspondence requiring correspondence controls from the public and private sectors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, J, and K apply to this system. Records may be also disclosed:

1. To a Federal, State or local agency when a response by that agency rather than EPA is more appropriate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

File folders and computer database.

RETRIEVABILITY:

By the name of the individual correspondent and the correspondence control number when assigned. Computer records can also be retrieved by other data fields.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Some controlled correspondence records are permanent. Correspondence from Division Directors and below is

retained for ten years. All other correspondence records are destroyed when five years old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of the Executive Secretariat, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA offices that prepared the response.

EPA-23**SYSTEM NAME:**

EPA Credential Information Records.

SYSTEM LOCATION:

Office of Inspector General credential records: Office of the Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460; All other credential records: Security and Property Management Branch, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees who are required to carry credentials that identify the bearer as having the authority to act in an official enforcement, inspection, or investigative capacity.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains all or part of the following information: Name of individual, title, grade, position, location, credential number, expiration date, date issued, status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c).

PURPOSE(S):

To issue official EPA credentials to designated Agency employees who are required to carry credentials to identify them as having the authority to act in an official enforcement, inspection, or investigative capacity; to maintain a record of all holders of credentials, for renewal and recovery of expired credentials, and to identify lost or stolen credentials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To any person in response to a request to verify the credentials of an EPA employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

File folders and computer database.

RETRIEVABILITY:

By name, credential number, or location of the data subject.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are destroyed three months after separation or revocation of credential.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Inspector General credential records: Assistant Inspector General for Management, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. All other credential records: Chief, Security and Property Management Branch, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a

record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and the offices preparing credentials.

EPA-24**SYSTEM NAME:**

Claims Office Master Files.

SYSTEM LOCATION:

Office of General Counsel, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Claims Office Master Files (COMF) contains claim records affecting individuals in six categories. COMF-TOR is composed of records covering individuals filing claims under the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, for money damages for injury, death or damage caused by the negligence or wrongful acts or omissions of employees of EPA. COMF-FCC is comprised of records covering individuals who are indebted to EPA and against whom EPA has initiated actions under the Federal Claims Collection Act, as amended, 31 U.S.C. 3711 *et seq.* COMF-MCE is composed of records covering individuals making claims for loss or damage to personal property under the Military Personnel and Civilian Employees Claims act, 31 U.S.C. 3721. COMF-WAV is composed of records covering individuals requesting waiver under 5 U.S.C. 5584 of claims for erroneous payments of salary or transportation expenses. COMF-GAR is composed of records covering EPA employees whose salaries are garnished under 42 U.S.C. 659, 661-662 for alimony, child support, or commercial garnishments. COMF-RCD is composed of records covering individuals claiming reimbursement of collision deductible payments on rental vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. COMF-TOR contains records relating to tort claims against EPA. It may contain administrative claims, investigative reports, witness statements, certifications of scope of employment, damage estimates, medical records, letters to claimants, claimant responses, the Agency final decision on claims, and other records concerning tort claims. COMF-FCC contains documents relating to debts owed EPA by individuals, corporations, State and local governments, and Indian tribes. It may include documents which evidence the debt (*e.g.*, audit reports, travel voucher, consent decrees, etc.), demand letters, debtor responses, credit reports, information obtained from private collection agencies, and other records concerning debt claims. It may contain the social security numbers of individual debtors to the extent such numbers are contained in travel vouchers or other documents upon which the debt is based.

2. COMF-MCE contains records relating to employee claims for loss or damage to personal property. It may contain administrative claim forms, investigative reports, supervisor's reports, accident reports, documentation of the amounts claimed as damages, the Agency final action on claims, and other records concerning employee property claims.

3. COMF-WAV contains records relating to employee requests for waiver by the Government of claims for erroneous payment of salary or travel expenses. It may contain employee request for waiver forms, investigative reports and recommendations, certifications of the amount of overpayment, personnel records relevant to overpayments, evidence of the Government's final action on the request, and other records concerning waiver requests. The social security number of the employee is contained in the file.

4. COMF-GAR contains legal documents supporting the garnishment of the salary of EPA employees. It may include the order of garnishment or attachment, notices to the employee of garnishment, responses by the employee, payroll information, and other records concerning garnishment requests. The social security number of the employee may be contained in the file.

5. COMF-RCD contains records required to settle claims against EPA employees for rental car damage deductible claims. It may contain rental agreements, accident reports, damage estimates, employee requests for reimbursement, travel vouchers,

correspondence with rental car companies, evidence of the Agency final action on the claim, and other records concerning rental car deductible claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

COMF-TOR: 28 U.S.C. 2671 *et seq.* and 40 CFR part 10.

COMF-FCC: 31 U.S.C. 3711 *et seq.* and 4 CFR parts 101–105.

COMF-MCE: 31 U.S.C. 3721 and 40 CFR part 14.

COMF-WAV: 5 U.S.C. 5584 and 4 CFR parts 91–92.

COMF-GAR: 42 U.S.C. 659, 661–662 and 5 CFR part 581.

COMF-RCD: 5 U.S.C. 5704.

PURPOSE(S):

To assist the EPA Claims Office in managing its receipt, tracking, processing, and resolution of claims and to assist the Department of Justice and EPA in final resolution of claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, J, and K apply to this system. Records may also be disclosed:

1. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning a claim by or against an employee.

2. Records maintained in the COMF-FCC subsystem may be disclosed to commercial collection agencies under contract with EPA, as provided by 31 U.S.C. 3718 and 40 CFR part 13, for collection Purpose(s).

3. Records maintained in the COMF-RCD subsystem may be disclosed to rental car companies as part of EPA's resolution of claims by the rental car companies for damage.

4. Records maintained in COMF-RCD may be disclosed to Federal agencies where relevant to their involvement in the rental agreement or claims arising from it.

5. Records maintained in the COMF-GAR subsystem may be disclosed to the State agency responsible for child support and/or alimony collection and enforcement, and for enforcing commercial garnishment orders.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from records maintained in the COMF-FCC subsystem to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3701(a)(3)(B)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders in file cabinets within the Claims Office. Records are accessible through computer indexes maintained in the Claims Office.

RETRIEVABILITY:

By the name of the person, corporation, local or state government or Indian tribe, and the assigned claim number. This information is maintained in computer indexes within the Claims Office.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

COMF records are retained for ten (10) years. A resolved claim is retained within the Claims Office for five (5) years then transferred to the Federal Records Center where it is retained for an additional five (5) years. The record is destroyed by the Federal Records Center at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

EPA Claims Officer, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA employees in their official capacities. Other sources are:

COMF-TOR—local police authorities and witnesses;

COMF-FCC—private collection agencies and credit bureaus, other Federal agencies, local officials and State employees;

COMF-MCE—law enforcement and security personnel;

COMF-GAR—State court authorities and garnishers;

COMF-RCD—rental car companies and automobile repair companies.

EPA-27

SYSTEM NAME:

Employee Counseling and Assistance Program Records.

SYSTEM LOCATION:

Career Resource & Counseling Center, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. EPA offers counseling services to employees at regional offices through a national agreement with the Public Health Service. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees who seek, are referred to, and/or receive assistance through the Agency Employee Counseling and Assistance Program in connection with personal or work related problems, including, but not limited to, problems related to alcohol and/or drug abuse.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of employees who have been counseled or otherwise assisted. Information which may be found in this record system includes the employee's name, location within the Agency, sex, age, race, office telephone number, grade, job title and series; problem assessment, recommended treatment, referral source and client status; notes about counseling sessions made by the counselor; copies of admonishments and reprimands received by the employee; copies of performance appraisals received by the employee; copies of performance appraisals; and documentation of treatment from therapists, physicians, rehabilitation treatment centers and other outside private or community resources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

42 U.S.C. 290dd–1, 290ee–1; 5 U.S.C. 7901; Executive Order 12564 (Sept. 15, 1986).

PURPOSE(S):

To counsel EPA employees who are experiencing personal or work related

problems, including alcohol and drug abuse problems, which may affect their work performance; to document the nature of the employee's problem and the progress made, to record an employee's participation in and the results of community or private sector treatment or rehabilitation programs, and, with the employee's consent, to coordinate with appropriate supervisory or management officials concerning the progress of the employee's rehabilitation; to conduct scientific research, management and financial audits and program evaluations, but individual employees shall not be identified in any resulting reports, audits, or evaluations nor their identities further disclosed in any manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses F and H apply to this system. Disclosure of records pertaining to an employee's alcohol or drug abuse is restricted under the provision of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

By the names of the client employees and by client numbers cross-indexed by names.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

ECAP records are retained until three years after termination of counseling or until the individual leaves the EPA and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Career Resource and Counseling Center, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a

record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, a record subject's family, sources to whom a record subject has been referred for assistance, supervisors and other EPA officials, agency health unit, and ECAP counselors.

EPA-29

SYSTEM NAME:

EPA Travel, Other Accounts Payable, and Accounts Receivable Files.

SYSTEM LOCATION:

National Computer Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; other EPA offices. See the appendix for addresses of regional and other offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals who owe monies to and individuals who are owed monies from the Environmental Protection Agency are covered by the system. This includes, but is not limited to, monies owed to EPA for refunds, penalties, travel advances, Interagency Agreements, or Freedom of Information Requests. This system also contains information on corporations and other entities that are in debt to EPA. Records on corporations and other entities are not subject to the Privacy Act. This system also includes monies owed by EPA to Agency employees, consultants, private citizens, and others who travel or perform other services for EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is composed of an accounts receivable module and travel and other accounts payable modules. The system contains personal identifying information such as names, addresses, and Social Security numbers of persons indebted to or owed money by EPA. The accounts receivable module contains information about the nature of the debt or claim, the amount

owed, the history status of the debt, and information that relates to and documents efforts to collect debts owed the Agency. The travel and other accounts payable modules contain information about the travel authorization; travel vouchers, which support the claim for the reimbursement to the travel; travel advance authorizations, which provide fund advances to pay travel expenses incurred in the performance of official government business; and finally itemized invoices for other services performed for EPA. In both modules, banking information necessary to support electronic funds transfers may be maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511-3513; 5 U.S.C. 5514; 31 U.S.C. 3702; 31 U.S.C. 3711 *et seq.*; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

Records in the accounts receivable module are used primarily to create a record of, and track, all accounts receivable and to assist EPA in collecting debts owed the Agency. Records in the travel and other accounts payable modules are used primarily to create a record of and to track all monies owed by the EPA for authorized travel and for other services performed for EPA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To Union representatives when relevant and necessary to their duties as exclusive bargaining agents under the Civil Service Reform Act of 1978, 5 U.S.C. 7111, 7114.
2. To the Office of Management and Budget, and Department of Treasury for Purpose(s) of carrying out EPA's financial management responsibilities.
3. To the Defense Manpower Data Center of the Department of Defense, U.S. Postal Service, Department of the Treasury, Justice Department or other federal agencies for the Purpose(s) of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under programs administered by EPA. The Purpose(s) of the disclosure is to collect the delinquent debts by voluntary repayment, administrative, salary, tax refund offset procedures, or through litigation. When disclosures are made as part of computer matching programs,

EPA will comply with the Computer Matching and Privacy Protection Act of 1988.

4. To provide debtor information to consumer reporting agencies in order to obtain credit reports for use by EPA for debt collection Purpose(s) and to report delinquent debts.

5. To provide debtor information to debt collection agencies under contract to EPA to help collect debts owed EPA. Debt collection agencies will be required to comply with the Privacy Act and their agents will be made subject to the criminal penalty provisions of the Act.

Note: The term "debtor information" as used in the routine uses above is limited to the individual's name, address, social security number, and other information necessary to identify the individual; the amount, status and history of the claim; and the agency or program under which the claim arose.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosure may be made to a consumer reporting agency 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)(30)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On computer systems, tapes, disks, microfiche, and other hard copy formats. The mainframe and the computer tapes and disks are located in Research Triangle Park, North Carolina. Backup tapes are maintained at a disaster recovery site.

RETRIEVABILITY:

Accounts receivable module records are indexed by account receivable control number (a number assigned to each "incoming" account receivable). Individual records can be accessed by using a cross reference table which links accounts receivable control numbers with debtors names and associated debtor information. Travel and other accounts payable module records are retrievable by name and social security number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained for at least two years. In some cases depending on program needs, records may be maintained for a longer period. Manual records are ultimately transferred to a Record Center where they are kept until disposed of in accordance with record disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Office of the Comptroller, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contain a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, supervisors, consumer reporting agencies, debt collection agencies, the Department of the Treasury and other Federal agencies.

EPA-30

SYSTEM NAME:

OIG Hotline Allegation System.

SYSTEM LOCATION:

Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who report information to the Office of Inspector General (OIG) concerning the possible existence of activities constituting a violation of law, rules, or regulations, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety, and the subject of the complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complainants who report indications of wrongdoing; name and address of the complainant (except for anonymous complainants), date complaint received, program area, nature and subject of complaint, any additional contacts and specific comments provided by the complainant; information on the OIG disposition of the complaint, including investigative case number, preliminary inquiry number, dates of referral, reply, and follow-up, and status and disposition code of the complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Inspector General Act of 1978, 5 U.S.C. app. 3; and 5 U.S.C. 301.

PURPOSE(S):

To conduct and supervise OIG audits and investigations relating to programs and operations of the EPA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To any source, private or public, to the extent necessary to secure from such source information relevant to a legitimate EPA investigation, audit, decision, or other inquiry.
2. To a Federal agency responsible for considering suspension or debarment action where such record would be relevant to such action.
3. To the Department of Justice to obtain its advice on Freedom of Information Act matters.
4. In response to a lawful subpoena issued by a Federal agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files and a computer database.

RETRIEVABILITY:

By case number, complainant or subject name, and subject matter.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Inspector General Records, approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Mission Systems, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

RECORD ACCESS PROCEDURE:

To the extent permitted under the Privacy Act of 1974, 5 U.S.C. 552a(k)(2), this system has been exempted from the provisions of the Privacy Act of 1974 that permit access and correction. However, EPA may, in its discretion, fully grant individual requests for access and correction if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. The exemption from access is limited in some instances by law to information that would reveal the identity of a confidential source.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Complainants who are employees of EPA; employees of other Federal agencies; employees of state and local agencies; and private citizens. Records in the system come from complainants through the telephone, mail, personal interviews, and Internet Web Site. Because security cannot be guaranteed on the Internet site, complainants are advised that information they provide through the Internet site may not be confidential.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4)(G); (e)(4)(H); and (f)(2) through (5).

EPA-31**SYSTEM NAME:**

Acquisition Training System.

SYSTEM LOCATION:

Office of Acquisition Management, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS IN SYSTEM:

EPA employees performing contract management who are subject to the Agency certification program and who are certified, as set forth in Chapter 7 of the EPA Contracts Management Manual.

CATEGORIES OF RECORDS IN SYSTEM:

Training records for the EPA contract manager certification program, including an individual's training history, name, title, organization, mail code, business address, work phone number, employee number, previously contract management courses, course completion dates, and interim certification status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Office of Federal Procurement Policy Act of 1974, 41 U.S.C. 414.

PURPOSE(S):

To assure a proficient contract management workforce by identifying EPA employees who are eligible to be or have been certified as Contract Managers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Computer database and hardcopy files.

RETRIEVABILITY:

From the computer database by an employee's name or office mail code; from hardcopy files by an employee's name and date of training.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records may be deleted from the Acquisition Training System upon the employee's separation from the Agency.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Acquisition, Training, and Oversight Service Center, Office of Acquisition Management, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA acquisition management officials.

EPA-32**SYSTEM NAME:**

EPA Telecommunications Detail Records.

SYSTEM LOCATION:

National Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees, contractors, grantees, and other persons performing services on behalf of the EPA who use telecommunications services charged to EPA.

CATEGORIES OF RECORDS IN SYSTEM:

Records relating to the use of EPA telecommunications services (e.g.,

telephone calls, video conference, 800 number calling, satellite downlinks, credit card calls), records indicating the assignment of telephone numbers to personnel, and records indicating the location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

31 U.S.C. 1348(b).

PURPOSE(S):

To aid in planning its future telecommunications needs, and to control telecommunications costs by ensuring that facilities are used only for official Purpose (s) and by determining individual accountability for telephone usage.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To a telecommunications company and/or the General Services Administration who are providing telecommunications support to verify billing or perform other servicing to the account.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Mainframe computer, computer tapes, and other computer media.

RETRIEVABILITY:

By originating and destination telephone numbers, responsible individuals, call date, call time, call duration, destination city and state, and calling charge.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the National Archives and Records Administration, General Records Schedule 12.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants

access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

(1) EPA employees, contractors, grantees, and other persons who are performing services on behalf of the EPA, (2) EPA telephone assignment and Locator records, (3) GSA and other phone companies, and (4) EPA-owned Private Branch Exchange systems.

EPA-33

SYSTEM NAME:

Debarment and Suspension Files.

SYSTEM LOCATION:

Office of Grants and Debarment, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460, and Regions 1 through 10 which recommend suspension and debarment action. See the appendix for the address of regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been suspended, proposed for debarment, or debarred from Federal procurement and assistance programs and individuals who have been the subject of agency inquiries to determine whether they should be debarred and/or suspended from Federal procurement and assistance programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include information on individuals and firms excluded or considered for exclusion from Federal acquisition or assistance programs as a result of suspension or debarment proceedings initiated by EPA. Such information includes, but is not limited to, names and addresses of individuals covered by the system of records, evidence obtained in support of Action Referral Memoranda and Case Closure Memoranda, interim decisions, compliance agreements, audits of compliance agreements, and final

determinations. Examples of evidence contained in files include correspondence, inspection reports, memoranda of interviews, contracts, assistance agreements, indictments, judgment and conviction orders, plea agreements, and corporate information. Evidence may include documents containing individuals' Social Security Numbers. Computer generated records include data regarding categories and status of cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Property and Administrative Services Act of 1949, 41 U.S.C. 251 *et seq.*; Office of Federal Procurement Policy Act, 41 U.S.C. 401 *et seq.*; Executive Order 12549 (Feb. 18, 1986); and Executive Order 12689 (Aug. 16, 1989).

PURPOSE(S):

To assist EPA in assembling information on, conducting, and documenting debarment and suspension proceedings to ensure that Federal contracts and Federal assistance, loans, and benefits are awarded to responsible business entities and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To the General Services Administration (GSA) to compile and maintain the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" in accordance with FAR 9.404 and 40 CFR 32.500 and 32.505.

2. To organizations suspended, proposed for debarment or debarred in EPA proceedings; to the legal representatives of such organizations; and to the legal representatives of individuals suspended, proposed for debarment or debarred in EPA proceedings.

3. To a Federal, state, or local agency, financial institution, or other entity to verify an individual's eligibility for engaging in a covered transaction as defined at 40 CFR 32.200.

4. To Federal, state, or local agencies, in response to requests or subpoenas, or otherwise, for the Purpose (s) of; (a) assisting them in administering Federal acquisition, assistance, loan and benefit programs or regulatory programs, (b) assisting them in discharging their duties to ensure that Federal contracts and assistance, loans, and benefit programs are awarded to responsible individuals and organizations, and (c)

ensuring that Federal, state or local regulatory responsibilities are met.

5. To the public, upon request, and to publishers of computerized legal research systems, but such disclosures shall be limited to interim or final decisions and settlement agreements.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, computer databases, and other electronic media.

RETRIEVABILITY:

By name of the firm or individual and by file number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained in accordance with EPA's Assistance and Interagency Agreement Records Schedule, NC1-412-85-25/7. Investigative and advocacy files are destroyed after the issuance of a final determination or entry of a compliance agreement. Audit files are retained throughout the term of the relevant compliance agreement. The official administrative record is retained in the office until three months after the period of debarment or voluntary exclusion expires, or all provisions of the compliance agreement have been completed. The official administrative record is then transferred to the Federal Records Center (FRC) for storage. Files relating to cases closed without action are also transferred to the FRC three months after the decision to close the matter. The records transferred to the FRC are destroyed when they are 6 years and 3 months old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Grants and Debarment, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a

driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

EPA and other Federal officials, state and local officials, private parties, businesses and other entities who may have information relevant to an inquiry, and individuals who have been suspended, proposed for debarment or debarred, and their legal representatives.

EPA-34

SYSTEM NAME:

Medical and Research Study Records of Human Volunteers.

SYSTEM LOCATION:

Human Studies Facility, Human Studies Division, National Health and Environmental Effects Research Laboratories, Office of Research and Development, Environmental Protection Agency, 104 Mason Farm Road, Chapel Hill, NC 27599.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who volunteer for participation in EPA-sponsored, human studies research, whether or not they are accepted for participation, and individuals who participate in the research.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, telephone numbers of individual volunteers; individual vital statistics; medical histories; psychological profiles; results of laboratory tests; results of participation in specific research studies; and related records pertinent to the human subject research program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Resource Conservation and Recovery Act, 42 U.S.C. 6981; Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9660; Clean Air Act, 42 U.S.C. 7403; Safe Drinking Water Act, 42 U.S.C. 300j-1; Federal Water Pollution Control Act, 33 U.S.C. 1254; Toxic Substances Control Act, 15 U.S.C. 2609; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136r.

PURPOSE(S):

To support the EPA regulatory process by providing scientific information on the health effects of environmental pollutants; to screen volunteers to protect them from unnecessary health risks, to document their medical condition, and to document the specific research activities in which the subjects participated.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses D, E, F, H, and K apply to this system. Records may also be disclosed:

1. To scientists at governmental or private institutions, research centers, or businesses who assist with EPA research projects or who conduct related research (normally peer reviewed and institutional review board approved) that can benefit from access to EPA research records.

2. To public health authorities in conformity with federal, state, and local laws when necessary to protect the public health. Individuals whose records might be disclosed under this authority are normally notified of the possibility of disclosure through informed consent agreements.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, on index cards, and in an electronic database. Some records may also be stored off site in a secure facility maintained by a contractor to the EPA Human Studies Division.

RETRIEVABILITY:

By name and by identifying numbers assigned for each project.

SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

The records are permanently maintained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Studies Facility, Human Studies Division, National Health and Environmental Effects Research Laboratories, Office of Research and Development, Environmental Protection Agency, 104 Mason Farm Road, Chapel Hill, NC 27599.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Research subjects. Medical records of a research subject may be obtained occasionally with the consent of the research subject.

EPA-35**SYSTEM NAME:**

EPA Transit and Guaranteed Ride Home Program Files.

SYSTEM LOCATION:

Transportation Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Records may also be maintained in regional offices. See the appendix for the address of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees apply for and participate in the EPA Transit Subsidy Program and the Guaranteed Ride Home Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, home address, grade level, office address and phone number, current and proposed commuting pattern, estimated monthly commuting cost, certification and recertification forms, and other information related to carrying out activities under the transit subsidy program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Employees Clean Air Incentives Act, 5 U.S.C. 7905; and Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

To manage the EPA Transit Subsidy Program, including receipt and processing of employee applications and distribution of the fare media to employees; to track the use of appropriated funds used to support the program; and to evaluate employee participation in the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routines uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To federal, state, or local agencies to detect unauthorized payments, fraud and abuse, or recoup improper payments in transit subsidy programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In a computer database and in file folders.

RETRIEVABILITY:

By name and the first four digits of the social security number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained for a maximum of two years following the last month of an employee's participation in the EPA Transit Subsidy Program. Shredding destroys paper copies. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Transportation Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification

card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR Part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA-36**SYSTEM NAME:**

Research Grant, Cooperative Agreement, and Fellowship Application Files.

SYSTEM LOCATION:

National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (principal investigators and fellows) who request or have previously requested support from the ORD research grants programs, either individually or through an academic institution, state agency, or non-profit organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of the principal investigators, research proposals and their identifying numbers, supporting data from the academic institutions or other applicants, proposal evaluations from peer reviewers, review records, financial data, and other material related to evaluation of applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*; Clean Air Act, 42 U.S.C. 1857 *et seq.*; Federal Water Pollution Control Act, 33 U.S.C. 1254 *et seq.*; Public Health Service Act, 42 U.S.C. 241 *et seq.*; Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.*; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300j-1; Toxic Substances Control Act, 15 U.S.C. 2609, Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9660. Other laws may be relevant as well.

PURPOSE(S):

To assist EPA in conducting and documenting the receipt and review of

applications and award of research grants to the most meritorious applicants in response to solicitations issued by the Office of Research and Development in furtherance of its Science to Achieve Results (STAR) program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To qualified reviewers retained by EPA for their opinion and evaluation of applicants and their proposals as part of the application review process.
2. To other Federal government agencies and private-sector organizations regarding applicants in order to coordinate joint grant programs between Federal agencies, State or local government agencies, and/or private-sector organizations.
3. To the applicant institution to obtain data for use in reviewing applications, awarding grants, or administering grants.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic databases and hard copy files.

RETRIEVABILITY:

Electronic files may be retrieved by most data elements in the database (primarily by topic area and assistance number). Retrieval by name of principal investigator is reserved to the system manager.

SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Hard copies of awarded proposals are transferred to the Federal Records Center one year after closeout where they are retained for an additional six years. Hard copies of declined proposals are destroyed three years after they are declined.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Peer Review Division, National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Academic institutions, principal investigators, other applicants, peer reviewers, and EPA and other Federal agency personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in that subsection: 5 U.S.C. 552a(c)(3) and (d).

EPA-37

SYSTEM NAME:

ORD Peer Review Panelist Information System (PRPIS) System.

SYSTEM LOCATION:

National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Peer reviewers who may be retained by EPA to evaluate grant, fellowship, and cooperative agreement applicants and their applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of peer reviewers, supporting data about their academic institutions or other institutional affiliations, proposal evaluations from peer reviewers, review records, contract and financial data, committee or panel discussion summaries, and other agency records containing or reflecting comments on the applications or the applicants from peer reviewers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*; Clean Air Act, 42 U.S.C. 1857 *et seq.*; Federal Water Pollution Control Act, 33 U.S.C. 1254 *et seq.*; Public Health Service Act, 42 U.S.C. 241 *et seq.*; Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.*; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*

PURPOSE(S):

To assist EPA conduct and document review of applications for research grants, cooperative agreements, and fellowships through the use of peer reviewers from the scientific community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, E, F, G, H, and K apply to this system.

RECORDS MAY ALSO BE DISCLOSED:

1. To Federal government agencies that cooperate with EPA in joint grant programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic database and on CD-ROM.

RETRIEVABILITY:

By the name and subject related characteristics of peer reviewers.

SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

File is cumulative and is maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Peer Review Division, National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, and EPA and other Federal agency personnel.

EPA-38**SYSTEM NAME:**

Invention Reports Submitted to the EPA.

SYSTEM LOCATION:

Office of General Counsel, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Invention reports from contractors, subcontractors, grantees, and cooperative agreement recipients are submitted to and maintained on behalf of EPA by the Office of Policy for Extramural Research Administration, National Institutes of Health, Bethesda, Maryland, in the Extramural Invention Information Management System (code-named Edison).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees and employees of contractors, subcontractors, grantees, cooperative agreement recipients (40 CFR part 30), and parties to cooperative research and development agreements (15 U.S.C. 3710a) who have submitted invention reports to EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Invention reports, patent applications, patents, patent assignments, licenses, procurement requests, Government purchase orders, and other documents relevant to inventions made under EPA sponsorship.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Executive Order 9865 (June 14, 1947), Executive Order 10096 (Jan. 23, 1950), 35 U.S.C. Ch. 18 (Patent Rights in Inventions Made with Federal Assistance), 37 CFR parts 401, 404, and 501; 40 CFR part 30, 48 CFR parts 27 and 52; 15 U.S.C. 3710a.

PURPOSE(S):

Records are maintained for the Purpose (s) of documenting inventions

made under EPA sponsorship, including filing patent applications, determining rights to inventions, licensing inventions, and ascertaining inventorship and priority of invention.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To scientific personnel who possess the expertise to understand the invention and evaluate its importance to the Government and/or the public.
2. To contract patent counsel and their employees retained by the Agency for patent searching, preparation and prosecution of United States and foreign patent applications.
3. To Government agencies that we contact regarding possible use, interest in or ownership rights in our inventions.
4. To technology assistance personnel, technology evaluators, technology finders, and prospective licensees who may further make the invention available to the public through evaluation, promotion, sale, use, or publication.
5. To parties, such as supervisors of inventors, whom we contact to determine ownership rights, and to people contacting us to determine the Government's ownership.
6. To the United States and foreign Patent and Trademark Offices when we file U.S. and foreign patent applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Individual file folders in file cabinets and indexed on computer tracking system.

RETRIEVABILITY:

By inventor's name, case identification number, and patent application number or patent number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

The records are maintained for fifteen years after completion or termination of action on the disclosed invention, such as issuance of a patent. The records are maintained at EPA for approximately three and are then sent to a Federal Records Center for the remainder of the applicable retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Invention report submitters and their supervisors; other persons with knowledge of the invention or expertise in the particular area of the invention; EPA Patent Counsel; EPA contractors who have searched the invention, prepared a patent application on the invention and/or otherwise performed work relating to a patent application; and the United States and foreign patent offices.

EPA-39**SYSTEM NAME:**

Superfund Cost Recovery Accounting Information System.

SYSTEM LOCATION:

Office of the Comptroller, Office of the Chief Financial Officer, Financial Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past employees, contractors, and consultants involved in Superfund activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identification number, hours worked during pay period, work activity classification, travel expenses, and any other recoverable expense items.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607; 5 U.S.C. 301; 31 U.S.C. 3512; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

To support identification and recovery of the costs of Superfund activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, I, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

On paper and in a computerized database.

RETRIEVABILITY:

By employee number, name, organization; Superfund site, and transaction date.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Paper and computer records may be kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought.

Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

Appendices to Systems of Records Notices:**1. List Of Addresses For EPA Regional And Other Offices**

Region I: One Congress Street, Suite 1100
Boston, MA 02203.

Region II: 290 Broadway, New York, NY
10007.

Region III: 1650 Arch Street, Philadelphia,
PA 19103.

Region IV: 61 Forsyth Street, SW., Atlanta,
GA 30303.

Region V: 77 West Jackson Boulevard,
Chicago, IL 60604.

Region VI: 1445 Ross Avenue, Suite 1200,
Dallas, Texas 75202.

Region VII: 726 Minnesota Avenue, Kansas
City, KS 66101.

Region VIII: 999 18th Street, Suite 500,
Denver, CO 80202.

Region IX: 75 Hawthorne Street, San
Francisco, CA 94105.

Region X: 1200 Sixth Avenue, Seattle, WA
98101.

Other EPA offices:

New England Regional Laboratory, 60
Westview Street, Lexington, MA 02173.

Atlantic Ecology Division, 27 Tarzwell Drive,
Narragansett, RI 02882.

Criminal Investigation Division, New Haven
Resident Office, Robert Giamo Federal
Building, 150 Court Street, Room 433,
New Haven, CT 06507.

Environmental Services Division, 2890
Woodbridge Avenue, Building 10,
Edison NJ 08837.

New Hampshire Resident Office, Hampshire
Plaza, 1000 Elm Street, P.O. Box 1507,
Manchester, NH 03105.

Communications Division, Niagara Falls
Public Information Center, 345 Third
Street, Suite 530, Niagara Falls, NY
14303.

Division of Environmental Planning and
Protection, Long Island Sound Office,
Stamford Government Center, 888
Washington Boulevard, Stamford, CT
06904

Caribbean Environmental Protection
Division, Centro Europa Building, 1492
Ponce De Leon Avenue, Santruce, PR
00907.

Caribbean Environmental Protection
Division, Virgin Islands Coordinator
Office, Federal Office Building &
Courthouse, St. Thomas, VI 00802.

Criminal Investigation Division, Edison
Resident Office, 2890 Woodbridge
Avenue, Edison, NJ 08837.

Criminal Investigation Division, Buffalo
Resident Office, 138 Delaware Avenue,
Buffalo, NY 14202.

Criminal Investigation Division, Syracuse
Resident Office, Hanley Federal
Building, 100 S. Clinton Street, 9th
Floor, Syracuse, NY 13261.

Environmental Response Team Center, 2890
Woodbridge Avenue, Edison, NJ 08837.

Urban Watershed Management Branch, 2890
Woodbridge Avenue, Edison, NJ 08837.

Trenton Resident Office, US Courthouse
Annex, Room 3050, 402 East State Street,
Trenton, NJ 08608.

Office of Analytical Services and Quality
Assurance Laboratory, 701 Mapes Road,
Fort Meade, MD 20755.

Wheeling Office, 303 Methodist Building,
11th and Chapline Streets, Wheeling,
WV 26003.

Quality Assurance Office, 701 Mapes Road,
Fort Meade, MD 20755.

Chesapeake Bay Program, Annapolis City
Marina, 701 Mapes Road, Fort Meade,
MD 20755.

Annapolis Operations, 2530 Riva Road,
Annapolis, MD 21401.

Analytical Chemistry Laboratory, Building
701 Mapes Road, Fort Meade, MD 20755.

Washington Area Office, 1100 Wilson
Boulevard, Arlington, VA 22209.

Environmental Photographic Interpretation
Center, 12201 Sunrise Valley Drive, 555
National Center, Reston, VA 20192.

Criminal Investigation Division, Wheeling
Resident Office, Methodist Building,
1060 Chapline Street, Wheeling, WV
26003.

Criminal Investigation Division, Annapolis
Resident Office, 701 Mapes Road, Fort
Meade, MD 20755.

Science and Ecosystems Support Division,
980 College Station Road, Athens, GA
30605.

South Florida Office, 400 North Congress
Avenue, West Palm Beach, FL 33401.

Gulf of Mexico Program Office, Building
1103, Stennis Space Center, MS 39529.

Environmental Chemistry Laboratory,
Building 1105, Stennis Space Center, MS
39529.

Criminal Investigation Division, Jackson
Resident Office, 245 East Capitol Street,
Suite 534, Jackson, MS 39201.

National Air and Radiation Environmental
Laboratory, 540 South Morris Avenue,
Montgomery, AL 36115.

Criminal Investigation Division, Charleston
Resident Office, 170 Meeting Street,
Suite 300, Charleston, SC 29402.

National Exposure Research Laboratory, MD-
75, Research Triangle Park, NC 27711.

Air Pollution Prevention and Control
Division, Research Triangle Park, NC
27711.

Office of Air Quality Planning and Standards,
411 West Chapel Hill Street, Durham, NC
27701.

Environmental Research Laboratory, 960
College Station Road, Athens, GA.
30605.

Human Studies Division, Clinical Research
Branch, Health Effects Research
Laboratory, Mason Farm Road, Chapel
Hill, NC 27599.

Criminal Investigation Division, Charlotte
Resident Office, 227 West Trade Street,
Carillon Building, Charlotte, NC 28202.

National Health and Environmental Effects
Research Laboratory, Gulf Ecology
Division, 1 Sabine Island Drive, Gulf
Breeze, FL 32561.

National Center for Environmental
Assessment, 3200 Highway 54, Research
Triangle Park, NC 27711.

National Health and Environmental Effects

- Research Laboratory, Research Triangle Park, NC 27711.
- Office of Administration and Resources Management, 79TW Alexander Drive, Research Triangle Park, NC 27711.
- Office of Inspector General, Washington Field Division, RTP Sub Office, Catawba Building, Research Triangle Park, NC 27711.
- Area Office of Civil Rights, Building 4201, 79 Alexander Drive, Research Triangle Park, NC 27711.
- Criminal Investigation Division, Miami Resident Office, Brickell Plaza Federal Building, 909 SE First Street, Suite 700, Miami, FL 33121.
- Criminal Investigation Division, Nashville Resident Office, Cordell Hull Building, 2nd Floor, 425 5th Avenue, North, Nashville, TN 37243.
- Criminal Investigation Division, Knoxville Resident Office, 800 Market Street, Suite 211, Knoxville, TN 37902.
- Criminal Investigation Division, Louisville Resident Office, 600 Martin Luther King, Jr. Place, Louisville, KY 40202.
- RTP Financial Management Center, 79 TW Alexander Drive, Administration Building, Research Triangle Park, NC 27711.
- Criminal Investigation Division, Tampa Resident Office, 400 North Tampa Street, Rm. 3123, Tampa, FL 33602.
- Criminal Investigation Division, Jacksonville Resident Office, 325 W. Adams Street, Suite 303, Jacksonville, FL 32202.
- Eastern District Office, 25089 Central Ridge Road, Westlake, OH 44145.
- National Exposure Research Laboratory, Microbiological and Chemical Exposure Assessment Research Division, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- National Center for Environmental Assessment Office, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Emergency Response Section One, 9311 Groh Road, Gross Ile, MI 48138.
- Environmental Research Center, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- National Risk Management Research Laboratory, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- ORD Publications Office, Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Cleveland Area Office, Islander Office Park, Building One, 7550 Lucerne Drive, Suite 305, Middleburg Heights, OH 44130.
- National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105.
- Mid Continent Ecology Division, 6201 Congdon Boulevard, Duluth, MN 55804.
- Area Office of Civil Rights, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Office of Senior Official for Research and Development, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Research Triangle Park Financial Management Center, 79 TW Alexander Drive, Research Triangle Park, NC 22771.
- Criminal Investigation Division, Detroit Resident Office, 9311 Groh Road, Gross Ile, MI 48138.
- Criminal Investigation Division, Indianapolis Resident Office, US Courthouse, 46 East Ohio Street, Indianapolis, IN 46204.
- Great Lakes Research Station, 9311 Groh Road, Gross Ile, MI 48138.
- National Environmental Supercomputing Center, 135 Washington Avenue, Bay City, MI 48708.
- Cincinnati Financial Management Center, Cincinnati, OH 45268.
- Criminal Investigation Division, Minneapolis Resident Office, 300 South 4th Street, Minneapolis, MN 55415.
- Criminal Investigation Division, Chicago Area Office, 300 S. Riverside, Chicago, IL 60606.
- USEPA Region 6 Laboratory, Houston Branch, 10625 Fallstone Road, Houston, TX 77099.
- U.S. Mexico Border Program Office, 4050 Rio Bravo, El Paso, TX 79902.
- USEPA Underground Injection Control, Pawhuska Section, PO Box 1495, Pawhuska, OK 74056.
- Brownsville Border Office, 3505 Boca Chica, Brownsville, TX 78251.
- National Risk Management Research Laboratory, Subsurface Protection and Remediation Division, Robert S. Kerr Environmental Research Center, PO Box 1198, Ada, OK 74821.
- Criminal Investigation Division, Houston Area Office, 1919 Smith Street, Suite 925, Houston, TX 77002.
- Criminal Investigation Division, Albuquerque Resident Office, 3305 Calle Cuervo, NW, #325, Albuquerque, NM 87114.
- Criminal Investigation Division, Baton Rouge Resident Office, 750 Florida Street, Baton Rouge, LA 70801.
- Environmental Services Division, 25 Funston Road, Kansas City, KS 66115.
- Criminal Investigation Division St. Louis Area Office, 1222 Spruce, St. Louis, MO 63103.
- Criminal Investigation Division, Kansas City Resident Office, US Courthouse, 500 State Avenue, Kansas City, KS 66101.
- Montana Operations Office, Federal Building, 301 South Park, Helena, MT 59286.
- National Enforcement Investigations Center, Building 53, Denver, CO 80225.
- Office of Enforcement Compliance and Assurance, Mobile Source Enforcement, Western Field Office, 12345 West Alameda Parkway, Lakewood, CO 80228.
- Center for Strategic Environmental Enforcement, 12345 West Alameda Parkway, Lakewood, CO 80228.
- USEPA Region 8, Denver Federal Center, Laboratory Services Program, Building 53, Denver, CO 80225.
- National Enforcement Training Institute West, 12345 West Alameda Parkway, Lakewood, CO 80228.
- Criminal Investigation Division, Helena Resident Office, 301 South Park, Helena, MT 59626.
- Criminal Investigation Division, Salt Lake City Resident Office, Wallace F. Bennett Federal Building, 125 South State Street, Salt Lake City, UT 84138.
- Pacific Island Contact Office, P.O. Box 50003, 300 Ala Moana Boulevard, Honolulu, HI 96850.
- Honolulu Resident Office, 449 South Ave., Bldg. 221, 2nd Floor, Pearl Harbor, HI 96860.
- San Diego Border Office, 610 West Ash Street, San Diego, CA 92101.
- USEPA Region 9 Laboratory, 1337 South 46th Street, Richmond, CA 94804.
- Los Angeles Area Office, 600 South Lake Ave., Suite 202, Pasadena, CA 91106.
- Area Office of Civil Rights, P.O. Box 93478, Las Vegas, NV 89193.
- Human Resources Office at Las Vegas, P.O. Box 98516, Las Vegas, NV 89193.
- Criminal Investigation Division, Sacramento Resident Office, 501 Eye Street, Suite 9-800, Sacramento, CA 95814.
- Office of Inspector General for Audits, Western Division, Sacramento Field Audit Office, 801 I Street, Sacramento, CA 95814.
- Criminal Investigation Division, San Diego Resident Office, 610 West Ash Street, San Diego, CA 92101.
- Environmental Sciences Division, National Exposure Research Laboratory, P.O. Box 93478, Las Vegas, NV 89193.
- Las Vegas Financial Management Center, P.O. Box 98515, Las Vegas, NV 89193.
- Criminal Investigation Division, 600 South Lake Avenue, Pasadena, CA 91106.
- Radiation and Indoor Environments National Laboratory, P.O. Box 98517, Las Vegas, NV 89193.
- Criminal Investigation Division, 522 North Central Avenue, Phoenix, AZ 85004.
- Alaska Operations Office, Federal Building, 222 West 7th Avenue, Anchorage, AK 99513.
- Alaska Operations Office, 410 Willoughby Avenue, Juneau, AK 99801.
- Oregon Operations Office, 811 S.W. Sixth Avenue, Portland, OR 97204.
- Hanford Project Office, 712 Swift Boulevard, Richland, WA 99352.
- Idaho Operations Office, 1435 North Orchard Street, Boise, ID 83706.
- Boise Resident Office, 877 West Main St., Suite 201, Boise, ID 83702.
- Manchester Laboratory, 7411 Beach Drive East, Port Orchard, WA 98366.
- Washington Operations Office, 300 Desmond Drive SE, Lacey, WA 98503.
- National Health and Environmental Effects Research Laboratory, Western Ecology Division, 200 S.W. 35th Street, Corvallis, OR 97333.
- National Health and Environmental Effects Research Laboratory, Western Ecology Division, Hatfield Marine Science Drive, 211 S.E. Marine Science Drive, Newport, OR 98365.
- Criminal Investigation Division, Portland Resident Office, 1001 South West 5th Avenue, Portland, OR 97204.
- Criminal Investigation Division, Anchorage Resident Office, 222 West 7th Avenue, Anchorage, AK 99513.

[FR Doc. 02-3921 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**[FRL-7145-6]****Privacy Act of 1974: Deletion of System of Records****AGENCY:** Environmental Protection Agency.**ACTION:** Notice; termination of six Privacy Act system of records.**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to terminate six Privacy Act system of records.**EFFECTIVE DATES:** The proposed deletions will be effective upon publication.**ADDRESSES:** Send written comments to Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460, telephone (202) 260-6131.**FOR FURTHER INFORMATION CONTACT:** Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460.**SUPPLEMENTARY INFORMATION:** Several existing EPA systems of records are obsolete.

Dated: October 25, 2001.

Margaret Schneider,
*Acting Assistant Administrator, Office of Environmental Information.***Obsolete Systems****1. EPA-2 General Personnel Records**

The categories of records in this system are nonpermanent personnel records not required to be maintained by the CSC. The reference to the superseded Civil Service Commission indicates the age of the notice. The Office of Personnel Management (OPM) superseded the CSC in 1978.

EPA-2 may not be an actual system of record. The notice can and should be eliminated as obsolete.

2. EPA-12 Statements of Known Financial Interests

EPA established this system of records following passage of laws in 1976 that imposed financial disclosures on EPA employees. Later laws applied financial disclosures requirements government-wide, and the specific EPA requirement became obsolete. See, e.g., 5 CFR part 2634 (1999) (Office of Government Ethics), and 61 FR 40500 (Aug. 2, 1996).

EPA-12 no longer exists and the notice can be eliminated as obsolete.

3. EPA-15 Enforcement Case Support Expert Resources Inventory

EPA-15 was clearly a system when it began. It appears that it is only still used

because the one person at EPA knowledgeable about the system continues to use it occasionally. The data is obsolete, and some procedures for selecting experts have changed. It seems unlikely that use of the records will continue after Lamber leaves the agency.

EPA-15 can be eliminated as obsolete.

4. EPA-16 Automated Information System for Career Management

This is one of two systems identified with the number 16. The original owner is the Procurement and Contracts Management Division. EPA-31, Contract Manager Record System, covers the same function, and that system notice will be updated under the name Acquisition Training System. EPA-16 no longer serves any purpose.

EPA-16 can be eliminated as duplicative.

5. EPA-26 Radon Contractor Proficiency Program

The information in the system is about individuals in their professional capacities as radon contractors, and it may not have been necessary to define it as a system of records. The decision to publish a system was reasonable, however, because of the possibility that some records could include personal information. In any event, the records were scheduled to disappear in the fall of 1999, and there is no reason to maintain the system notice.

EPA-26 can be eliminated as obsolete.

6. EPA-28 EPA Senior Environmental Employment Program Enrollee Records

While the administrative office may receive from program grantees a list of enrollee names, the office does not retrieve enrollee records by individual identifier. Records maintained by grantees are not subject to the Privacy Act because a grantee is not a contractor and is not performing an agency function.

EPA-28 can be eliminated as obsolete.
[FR Doc. 02-3922 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P**FARM CREDIT ADMINISTRATION****Sunshine Act Meeting****Farm Credit Administration Board; Regular Meeting****AGENCY:** Farm Credit Administration.**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the March 14, 2002 regular meeting of the Farm Credit Administration Board

(Board) will not be held. The FCA Board will hold a special meeting at 9 a.m. on Thursday, March 21, 2002. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT:

Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883-4009, TDD (703) 883-4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

Dated: February 20, 2002.

Kelly Mikel Williams,
Secretary, Farm Credit Administration Board.
[FR Doc. 02-4377 Filed 2-20-02; 11:38 am]**BILLING CODE 6705-01-P****FEDERAL COMMUNICATIONS COMMISSION****[CC Docket No. 92-237; DA 02-332]****Next Meeting of the North American Numbering Council****AGENCY:** Federal Communications Commission.**ACTION:** Notice.**SUMMARY:** On February 15, 2002, the Commission released a public notice announcing the March 12-13, 2002 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.**FOR FURTHER INFORMATION CONTACT:** Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418-2320 or dblue@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418-2345. The TTY number is: (202) 418-0484.**SUPPLEMENTARY INFORMATION:** Released: February 15, 2002.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, March 12, 2002, from 8:30 a.m. until 5 p.m., and on Wednesday, March 13, 2002, from 8:30 a.m., until 12 noon (if required). The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW, Room TW-C305, Washington, DC.

This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business

days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda—Tuesday, March 12, 2002

1. Announcements and Recent News
 2. Approve Minutes
 - Meeting of January 15, 2002
 - Updated NANC Directory
 3. Report of North American Numbering Plan Administrator (NANPA)
 4. Report of NANPA Oversight Working Group
 - Initial evaluation of survey results
 - Industry associations to report on efforts to encourage members to complete surveys
 5. Status of Industry Numbering Committee activities
 - Identifying “policy” issues
 - Summary “walk through” of NANP Expansion Plan
 - INC Regular Report
 6. Report of National Thousands-Block Pooling Administrator
 7. Report of NANP Expansion/Optimization IMG
 8. Report of the Local Number Portability Administration (LNPA) Working Group
 - Wireless Number Portability Operations (WNPO) Subcommittee
 - Native Block Pooling status
 - WNPO/CTIA: Status and risks to November 24, 2002 pooling and porting deadline
 9. Report of NAPM LLC
 10. Report from NBANC
 11. Report of Cost Recovery Working Group
 12. Report of E-Conferencing Subcommittee
 13. Steering Committee
 - Table of NANC Projects
 14. Report of Steering Committee
 15. Action Items
 16. Public Participation (5 minutes each)
 17. Other Business
- Adjourn (No later than 5 p.m.)

Wednesday, March 13, 2002 (If Required)

18. Complete any unfinished Agenda Items
 19. Other Business
- Adjourn (No later than 12:00 Noon)

Federal Communications Commission.

Diane L. Griffin,

*Acting Chief, Network Services Division,
Common Carrier Bureau.*

[FR Doc. 02-4216 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-179]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period from September 2001 through December 2001. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE, Mailstop E-32, Atlanta, Georgia 30333, telephone (404) 498-0007.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on November 16, 2001 (66 FR 57719). This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR part 90). This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive

Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605-6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between September 10, 2001, and December 13, 2001, public health assessments were issued for the sites listed below:

NPL Sites

California

Omega Chemical Site (a/k/a Omega Chemical Corporation) (PB2002-100351).

Georgia

Marine Corps Logistics Base (PB2002-100526).

Illinois

Joliet Army Ammunition Plant (Manufacturing Area) and Joliet Army Ammunition Plant (Lap Area) (PB2002-100352).

Maryland

Andrews Air Force Base (PB2002-100354).

Beltsville Agricultural Research Center (PB2002-101482).

Massachusetts

Atlas Tack Site (a/k/a Atlas Tack Corporation) (PB2002-101491).

North Carolina

Petitioned Public Health Assessment (a/k/a Carolina Solite Corporation/Aquadale) (PB2002-100417).

Puerto Rico

Isla de Vieques Bombing Site (PB2002-100532).

Utah

International Smelting and Refining (PB2002-100928).

Washington

Naval Undersea Warfare Center (NUWC) Division (a/k/a Naval Undersea Warfare Engineering Station) (PB2002-100405).

Boomsnub/Airco Superfund Site (a/k/a Boomsnub/Airco) (PB2002-100353).

Non NPL Petitioned Sites

None.

Dated: February 14, 2002.

Georgi Jones,

*Director, Office of Policy and External Affairs,
Agency for Toxic Substances and Disease
Registry.*

[FR Doc. 02-4318 Filed 2-21-02; 8:45 am]

BILLING CODE 4163-70-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**
**Centers for Medicare & Medicaid
Services**

[CMS-4030-N]

**Medicare Program; Solicitation for
Proposals for the Demonstration
Project for Disease Management for
Severely Chronically Ill Medicare
Beneficiaries With Congestive Heart
Failure, Diabetes, and Coronary Heart
Disease**

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

ACTION: Notice for solicitation of proposals.

SUMMARY: This notice informs interested parties of an opportunity to apply for a cooperative agreement for the Medicare Disease Management Demonstration. This demonstration uses disease management interventions to (1) improve the quality of services furnished to specific beneficiaries, (2) introduce full prescription drug coverage to encourage compliance with medical instructions and requirements, and (3) manage expenditures under Parts A and B of the Medicare program. We are interested in testing models aimed at beneficiaries who have one or more chronic conditions that are related to high costs to the Medicare program, namely, congestive heart failure, diabetes, or coronary heart disease. We intend to use a competitive application process to select up to three existing disease management organizations to participate in this demonstration.

Potentially qualified applicants are existing providers of disease management services applicable to the Medicare population specific to the three targeted chronic conditions.

DATES: Applications will be considered timely if we receive them on or before May 23, 2002.

ADDRESSES: Applications should be mailed to the following address: Department of Health and Human Services, Centers for Medicare & Medicaid Services, Attention: Tamara Jackson-Douglas, Project Officer, Center

for Beneficiary Choices, Mail Stop: C4-17-27, 7500 Security Boulevard, Baltimore, Maryland 21244.

Please refer to the file code CMS-4030-N on the application. Because of staffing and resource limitations, we cannot accept applications by facsimile (FAX) transmission. Applications postmarked after the closing date, or postmarked on or before the closing date but not received in time for panel review, will be considered late applications.

FOR FURTHER INFORMATION CONTACT:

Tamara Jackson-Douglas at (410) 786-9417, or by e-mail at TJackson2@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: Our Disease Management Demonstration website (www.hcfa.gov/research/dmdemo.htm) contains additional information about these demonstrations and specific submission requirements for applications.

I. Background

A. Statutory Requirements

Section 121 of the Medicare, Medicaid, and State Child Health Insurance Program Benefits Improvement and Protection Act of 2000 (BIPA) requires the Secretary of Health and Human Services (the Secretary) to conduct a demonstration project for the Medicare fee-for-service population to demonstrate the impact on costs and health outcomes of applying disease management services, supplemented with coverage for prescription drugs, to specific Medicare beneficiaries with diagnosed, advanced-stage congestive heart failure, diabetes, or coronary heart disease. This demonstration project should result in a net reduction in aggregate Medicare expenditures. This project may include up to three organizations and cover up to 30,000 beneficiaries at a time. The project will last for 3 years.

B. Problem

Historically, a small proportion of Medicare beneficiaries has accounted for a major proportion of Medicare expenditures. For example, in 1996, 12.1 percent of all Medicare enrollees accounted for 75.5 percent (\$126.1 billion) of all Medicare fee-for-service program payments. Many of these high-cost beneficiaries are chronically ill with certain common diagnoses, and most of the Medicare expenditures for their care are for repeated hospitalizations. During the next 30 years, as the population ages, the number of individuals and estimated cost of care for high-cost beneficiaries is expected to grow dramatically.

In the fee-for-service environment, health care for individuals with chronic illness has often been fragmented and poorly coordinated across multiple health care providers and multiple sites of care. Evidence-based practice guidelines have not always been followed, nor have patients always been taught how best to care for themselves. These shortcomings are particularly true for patients served under reimbursement systems in which providers lack incentives for controlling the frequency, mix, and intensity of services, and in which providers have limited accountability for the outcomes of care.

The vast majority of disease management patients' issues center around a single disease or condition and fall into fundamental problems with their own behavior, access to appropriate prescription drugs, or the disease-specific care they receive. Patient behavior-based problems include poor medication compliance, lack of self-care skills, and lack of adherence to recommended lifestyle changes. Patients' general reluctance to make major adjustments to their ways of life tends to be reinforced when patients are unable to see the direct or immediate benefits resulting from these changes.

Further compounding this problem for Medicare beneficiaries is the fact that Medicare generally does not cover outpatient prescription drugs. Beneficiaries wanting drug benefits have to purchase supplemental insurance, or join a Medicare+Choice plan if they are not already covered under an employer-sponsored retirement plan or a publicly-funded program, such as Medicaid or the Department of Veterans Affairs. Our research shows that, as of 1998, a majority (73 percent) of Medicare beneficiaries had some drug coverage at one point or another within a given year, and that fewer than half have had uninterrupted coverage for 2 consecutive years. Furthermore, questions remain regarding extent, quality, and comparability of coverage across different programs. Appropriate, effective pharmaceuticals are a key part of a comprehensive treatment program, and effective disease management must include access to appropriate medications.

Provider-related problems include failure to prescribe the most effective medications, poor coordination of care across providers and settings, lack of adherence to disease-specific guidelines based on evidence or expert panels, and inadequate follow-up and monitoring.

C. Disease Management

The level of interest in, and knowledge about, disease management is growing dramatically. The Institute of Medicine's report, entitled *Crossing the Quality Chasm: A New Health System for the 21st Century* (published by Health Care Services, National Academy Press in 2001), highlights the challenge of managing chronic conditions within a system that was designed to treat acute illness. Major national organizations, such as the National Disease Management Association (NDMA), have been formed to advance the practice of disease management, and the National Committee for Quality Assurance (NCQA) has just released draft standards for disease management programs for public comment.

Early efforts at disease management occurred mainly in managed care settings, because the plan and the providers had clear incentives to manage care, and the patients were enrolled and "locked into" a delivery system. More recently, a variety of health care organizations, including physician group practices, private insurers, commercial firms, and academic medical centers, have developed programs designed to address the challenges inherent in managing chronic illnesses within the context of a fee-for-service system.

The NDMA, NCQA, and other organizations, such as the National Pharmaceutical Council, have put forward definitions of disease management that contain certain common elements. These definitions view disease management as an approach to delivering health care to persons with chronic illnesses that aims to improve patient outcomes while containing health care costs. These definitions generally focus on persons whose primary health problem is a specific disease, although certain co-morbid conditions are usually addressed as well. Patients with a similar level of severity of the disease tend to face similar problems and therefore receive similar treatment plans. These disease management interventions tend to be highly structured and emphasize the use of standard protocols and clinical guidelines.

There are certain common features in all of these definitions:

- Identification of patients and matching the intervention with need.
- Use of evidence-based practice guidelines.
- Supporting adherence to the plan of care.
- Supporting adherence to evidence-based medical practice guidelines by

providing medical treatment guidelines to physicians and other providers, reporting on the patient's progress in compliance with protocols, and providing support services to assist the physician in monitoring the patient.

- Services designed to enhance patient self-management and adherence to his or her treatment plan. Examples of those services are patient education, monitoring and reminders, and behavior modification programs aimed at encouraging lifestyle changes.

- Routine reporting/feedback loop (may include communication with patient, physician, health plan and ancillary providers, and practice profiling).

- Communication and collaboration among providers and between the patient and his or her providers. Related services include team conferences, collaborative practice patterns, and routine reporting and feedback loops. In addition, care managers are often used to relay communication and to coordinate care across providers and by face-to-face encounters with chronically ill patients. Programs that address co-morbid conditions extend their communication efforts to include all of the patient's providers and the entire spectrum of care.

- Collection and analysis of process and outcomes measures.

In addition to these standard features, programs may include use of information technology, for example, specialized software, data registries, automated decision support tools, and call-back systems. Although disease management services usually do not include actual treatment of the patient's condition, many disease management programs augment the services provided in the traditional fee-for-service system by adding such services as comprehensive geriatric assessment, social services, preventive services, transportation, including prevention services and necessary prescription drugs and outpatient medications. The interventions provided go beyond those services generally covered under the Medicare fee-for-service program.

In our recent study (Best Practices in Coordinated Care, Chen et al., March 22, 2000) aimed at investigating and benchmarking case management and disease management efforts, we suggested that case and disease management organizations provide services aimed at addressing one or more of the following goals:

- Improving patient self-care through such means as patient education, monitoring, and communication.
- Improving physician performance through feedback and/or reports on the

patient's progress in compliance with protocols.

- Improving communication and coordination of services between patient, physician, disease management organization, and other providers.

- Improving access to services, including prevention services and necessary prescription drugs.

Programs vary in their relative focus on these areas. Some disease management programs may emphasize improving physician use of recommended clinical guidelines; others may focus on providing case managers to support and educate the patient and enhance communication; and still others may emphasize access to additional services.

D. Other CMS Demonstrations for Management of Chronic Diseases

In the past, we have conducted several demonstrations for case management of chronic illnesses, including the National Long-Term Care Demonstration (Final Report by Kemper et al., May 1966. NTIS Accession No. PB86-229119/AS) and the Medicare Alzheimer's Disease Demonstration Evaluation (Final Report October 1998). The evaluations of these demonstrations found that none of the demonstrations provided sufficient savings to cover the additional costs of case management.

There are several possible reasons for the lack of positive results. First, the most appropriate individuals were not always targeted and enrolled in the demonstration. In many cases, the sites enrolled patients with less severe, and therefore less costly, conditions, making it more difficult to achieve cost savings by avoiding normal utilization patterns of acute or long-term medical care. (See the Disease Management Demonstration website address at the beginning of the **SUPPLEMENTARY INFORMATION** section for additional information.)

We are currently conducting other demonstrations that test either case or disease management, both of which are designed for a smaller number of participants than Medicare's Disease Management Demonstration project. In one ongoing demonstration, Lovelace Health Systems, in Albuquerque, New Mexico, was chosen to operate demonstrations of intensive case management services for high-risk patients with congestive heart failure and diabetes to improve the clinical outcomes, quality of life, and satisfaction with services. The other is a larger scale demonstration authorized by section 4016 of the Balanced Budget Act of 1997 (BBA) to evaluate methods, for example, case management and disease management, that improve the

quality of care for beneficiaries with a chronic illness. The "Coordinated Care" demonstration was designed based on the findings of a review of best practices for coordinating care in the private sector. (See the Disease Management Demonstration website address at the beginning of the **SUPPLEMENTARY INFORMATION** section for additional information.)

E. This Disease Management Demonstration

In developing this demonstration, we reviewed the work and recommendations of organizations such as the NDMA and NCQA, and examined our prior and current experience with similar demonstrations.

This demonstration differs significantly from its predecessors in that the legislation stipulates that the demonstration must cover all prescription drugs, even those drugs not related to the beneficiary's targeted condition. The legislation also requires each demonstration organization to accept risk or have another entity agree to accept risk if certain Medicare budget provisions are not met, specifically if the demonstration does not reduce aggregate Medicare program expenditures. In addition, this solicitation highlights the need to target the severe and high-cost cases, and to match the intervention to the patient.

For the purpose of this demonstration, disease management is defined as a systematic approach to managing health care that aims to improve patient self-care, physicians' prescribing and treatment practices, communication and coordination of services between the patient, physician, disease management organization, and other providers, and access to needed services, and incorporates the following features:

- Patient identification, assessment, and enrollment.
- Patient instruction and empowerment regarding self-care.
- Implementation of an appropriate treatment plan based on clinical guidelines.
- Monitoring, feedback, and communication concerning the patient's condition.
- Arranging for and/or providing needed services, including prescription drugs and preventive services.

Disease management programs may also include additional services, such as nurse visits, access to special equipment, and coordination with specialty clinics.

II. Provisions of This Notice

A. Purpose

This notice solicits applications for demonstration projects that use disease management, along with coverage of prescription drugs, to improve the quality of services furnished to specific beneficiaries and to manage expenditures under Parts A and B of the Medicare program. The demonstration anticipates savings from more efficient provision and utilization of Medicare-covered services and the prevention of avoidable, costly medical complications. Applicants may propose to manage one, two, or all three of the advanced-stage, chronic conditions named in section 121 of BIPA (congestive heart failure, diabetes, and coronary heart disease). Even if the applicant focuses on one condition, the others should be treated as they relate to the targeted chronic condition. Beneficiaries may be subject to a modest cost-sharing arrangement pertaining to their prescription drug coverage. Applicants who offer demonstration services beyond the scope of traditional Medicare benefits are not to hold beneficiaries financially liable for demonstration services typically not covered by Medicare. Beneficiaries will continue to be subject to the same co-pays/coinsurance of the traditional Medicare fee-for-service program.

B. Randomization

The demonstration project must provide for voluntary participation for targeted Medicare beneficiaries. Preference will be given to proposals that make use of a randomized experimental design (for example, a concurrent treatment group that receives disease management services and a control group that receives usual care with patient assignment occurring after agreement to participate in the demonstration is established). Applicants must submit evidence of their ability to recruit and serve a study population of at least 5,000 Medicare beneficiaries who will be randomly assigned to applicable treatment and control groups.

When characteristics of the proposed intervention or the population under study renders a randomized design infeasible, applicants must provide a justification for that conclusion, and must fully describe how the proposed treatment and comparison groups would be identified so that the selection bias usually avoided by randomization would be minimized. Details of the applicant's proposed experimental design must be specified in its proposal, including the expected number of

eligible Medicare beneficiaries in the geographic area the program intends to serve and the proportion expected to volunteer for the demonstration.

Applicants must either—

- (1) Allow us or our contractor(s) to assign beneficiaries to the experimental and/or control groups; or
- (2) Have their proposed procedures for assignment approved and monitored by us.

Beneficiaries who are already being served by an awardee's program (that is, beneficiaries who are participants at the time an award is made to the disease management organization) may not be recruited by that awardee for participation in the demonstration.

C. Evaluation

Through this solicitation, project awards will be made to up to three disease management organizations. An organization may propose one or multiple sites for any of its targeted diseases or for multiple diseases. The demonstration projects will operate for up to 3 years from implementation during which time a formal independent evaluation will be conducted. Each awardee is expected to fully cooperate in all phases of the evaluation. Our project officer will be assigned to each selected project. That project officer will serve as the point of contact with the demonstration project staff and will provide technical consultation regarding cooperative agreement procedures, monitor demonstration site activities, and forward feedback to the demonstration project's staff.

D. Requirements for Models

We are seeking innovative proposals from organizations that can test whether models of disease management improve clinical outcomes and appropriate use of Medicare-covered services for targeted Medicare fee-for-service beneficiaries, while managing Medicare expenditures under parts A and B to achieve reduced aggregate Medicare expenditures.

Models that are targeted specifically at the Medicare population and that take into account the beneficiaries' relative health and functional status, age, mental functioning, and other relevant factors, are of particular interest. Preference will be given to proposals that focus on beneficiaries most likely to benefit from disease management interventions and that take patient co-morbidities into account in the services provided. In selecting applicants for this demonstration project, we will also consider whether the applicant will serve the Medicare ethnic patient

populations disproportionately affected by the targeted diseases.

An organization that wishes to apply to participate in the demonstration should refer to the specific submission requirements at our Web site (listed in the **SUPPLEMENTARY INFORMATION** section of this notice).

E. Submission of Applications

Applications (an unbound original and 10 copies) must be received by us as indicated in the **DATES** and **ADDRESSES** sections of this notice. Only proposals that are considered "on time" will be reviewed and considered by the technical review panel. Applications must be typed for clarity and should not exceed 40 double-spaced pages, exclusive of the cover letter, executive summary, resumes, forms, and documentation supporting the cost proposal. That is, sections 4, 5, 6, 7, 8, and 9 below must be presented in 40 double-spaced typewritten pages. These sections make up the body of the proposal and must fully describe the proposed project.

Application Contents Outline

To facilitate the review process, the application should include the following contents in the following order:

1. Cover Letter

Must include a brief description of the proposed project and indicate the target population, and urban site or rural site, and identify any and all CMS provider numbers assigned to the applicant, a contact person, and contact information.

2. "Application for Federal Assistance"—Standard Form 424

Must include SF-424a "Budget Information" and SF-424b "Assurances" available on our Web site (www.hcfa.gov/research/dmdemo.htm).

3. Executive Summary

Must include a summary of the project, disease management experience, existence of adequate information systems, and willingness to share protocols for disease management.

4. Statement of the Problem
5. Targeting the Appropriate Population
6. Description of Disease Management Intervention Services
7. Organizational Capabilities
8. Effectiveness of Intervention(s): Quality
9. Payment for Disease Management Services, Reduction of Medicare Expenditures, and Reinsurance
10. Related Supplemental Materials

III. Evaluation Process and Criteria

A panel of experts will conduct a review of responsive proposals. This technical review panel will convene in the months following the due date for submission of proposals. The panelists' recommendations will contain numerical ratings based on the evaluation criteria, the ranking of all responsive proposals, and a written assessment of each applicant. In addition, we will conduct a financial analysis of the recommended proposals and evaluate the proposed projects to ensure that aggregate Medicare program expenditures are reduced.

Our Administrator will make the final selection of projects for the demonstration from among the most highly qualified applicants, taking into consideration a number of factors, including operational feasibility, geographic location, and program priorities (for example, testing a variety of approaches for delivering services, targeting beneficiaries, and payment). Applicants should be aware that proposals may be accepted in whole or in part. In evaluating applications, we rely on our past experience with successful and unsuccessful demonstrations. We reserve the right to conduct one or more site visits before making awards. We expect to make the awards in 2002.

IV. Collection of Information Requirements

As this demonstration requires existing disease management organizations to (1) supplement their offerings with full prescription drug coverage, (2) provide reinsurance to guarantee reduced aggregate Medicare program expenditures, and (3) recruit and serve at least 5,000 appropriately-targeted Medicare beneficiaries, it is unlikely that many disease management organizations would be eligible to participate in this project. We expect fewer than 10 organizations to submit proposals. Therefore, the collection requirements referenced in this notice are not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), as defined under 5 CFR 1320.3(c).

Authority: Section 121 of the Medicare, Medicaid, and State Child Health Insurance Program Benefits Improvement and Protection Act of 2000 (BIPA).

(Catalog of Federal Domestic Assistance Program No. 93.779, Health Care Financing Research, Demonstrations and Evaluations)

Dated: February 5, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02-4355 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3061-FN]

RIN: 0938-AH15

Medicare Program; Disapproval of Alcon Laboratories' Request for an Adjustment in Payment Amounts for New Technology Intraocular Lenses Furnished by Ambulatory Surgical Centers

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

ACTION: Final notice.

SUMMARY: This final notice announces our disapproval of Alcon Laboratories' request for a \$50 adjustment in payment amount for lenses reviewed for determination as a new technology intraocular lens (NTIOL).

FOR FURTHER INFORMATION CONTACT: Betty Shaw, (410) 786-6100.

SUPPLEMENTARY INFORMATION: *Copies:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512-1800 (or toll-free at 1-888-293-6498) or by faxing to (202) 512-2250. The cost for each copy is \$9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: <http://www.access.gpo.gov/nara/index.html>.

I. Background

In our regulations at 42 CFR part 416, subpart F, we describe the process an interested party must use to request that

we review the appropriateness of the payment amount for a new technology intraocular lens (NTIOL) furnished by ambulatory surgical centers (ASCs). On October 26, 2001, we published a notice with comment period in the **Federal Register** (66 FR 54261) listing the lenses for which we had received requests for a review for payment adjustment. We received only one request, on May 16, 2001 from Alcon Laboratories for its Acrysof lenses MA30BA, MA60BM, MA50BM, MA60MA, MA30AC, and MA60AC. Alcon Laboratories claimed these lenses provide a reduction in the rate of Nd:YAG capsulotomy and posterior capsule opacification (PCO). MA30BA and MA60BM were previously submitted in 1999 and we subsequently determined that these lenses did not demonstrate clinical advantages over existing lenses with respect to reduction in Nd:YAG capsulotomy and reduced posterior capsule opacification by reduction in lens epithelial cells (LECs) (65 FR 25738, 25739).

In accordance with our NTIOL procedures, we asked the Food and Drug Administration (FDA) to review Alcon's new request to determine whether the claims of specific clinical advantage and superiority over existing intraocular lenses (IOLs) had been approved for labeling and advertising purposes. Our regulations require FDA's approval of its claims for advertising and labeling in order for an IOL to be classified as an NTIOL. The FDA conveyed its analysis of the lenses to CMS in an August 16, 2001 memorandum.

The FDA determined that the Acrysof lenses did not demonstrate clinical superiority over a representative sample of lenses outside the new class with respect to a reduced rate of Nd:YAG capsulotomy and PCO. Alcon Laboratories provided articles that could arguably support clinical advantages over a particular silicone IOL. However, Alcon Laboratories' FDA approved labeling states that there were no differences in Nd:YAG rate between the Acrysof lens and the silicone IOL studied.

II. Analysis of and Responses to Public Comments

We also received 20 comments in response to the notice listing the lenses requesting a review. Of these, 17 were from ophthalmologists. The other three comments were from one public interest group and two competing manufacturers of IOLs.

Comment: Seventeen of the commenters supported the Alcon Laboratories Acrysof lenses announced in the notice. All of these commenters

were practicing ophthalmologists. The comments received were testimonials of support based on the commenters' experiences with the Acrysof lenses. Commenters stated that the lenses reduced formation and migration of lens epithelial cells (LECs), and that there is a lower incidence of PCO, thus reducing Nd:YAG laser capsulotomy rates. The commenters also stated that the Acrysof lens unfolded more predictably, and with less force, thereby reducing the risk of inadvertent malpositioning of the lens.

Response: We appreciate the commenters' testimonials with regard to intra-operative and post-operative experiences with the Acrysof lenses. However, testimonials are substantially less reliable than published clinical data in deciding whether a lens has specific clinical advantages and superiority over existing lenses in order to be considered an NTIOL.

Comment: One commenter stated that claims that Acrysof lenses are superior to polyacrylic or second-generation silicone IOLs are not supported by published data.

Response: We agree with the commenter.

Comment: One commenter indicated that more recent studies report lower incidences of PCO with silicone IOLs than earlier reports, leading to a recent decrease in Nd:YAG laser capsulotomy rates. The commenter noted that the decrease was attributed to improvements in surgical technique rather than improvements in lens material or design.

Response: The manufacturer of these lenses has not demonstrated clinical advantages and superiority over existing lenses, as the regulations require.

III. Criteria for Determination

We evaluate requests for the designation of an IOL as an NTIOL by using the following criteria:

(1) Has the requestor identified the new class of IOLs to which its lens belongs based on a type of material and/or predominant characteristic that it does not share with lenses outside of the new class?

(2) Has the requestor demonstrated that its lens is clinically superior to a representative sample of lenses outside of the new class? Clinical superiority includes reducing the risk of intraoperative or postoperative complication or trauma, or demonstrating accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) Has the requestor demonstrated that the clinical superiority is produced by the material and/or predominant characteristic that defines the new class?

(4) Has the FDA approved the claim of clinical superiority for labeling and advertising?

IV. Decision

In determining which lenses meet the criteria and definition of an NTIOL, we relied on the clinical data and evidence submitted to us by Alcon Laboratories, public comments, and the FDA's approval of Alcon's claims. We independently reached the same decision as the FDA.

In regard to the first criterion, it is appears that Alcon is claiming that the Acrysof lenses are a new class because of outcomes resulting in reduced LEC migration and reduced incidence of Nd:YAG posterior capsulotomy. However, the criterion specifically states that a new class must be based on a material and/or predominant characteristic. CMS asserts that "predominant characteristic," like material characteristic, would be some physical property of the lens, and that it would be this material or predominant characteristic that would lead to the outcome benefit. Alcon did not define the material and/or predominant characteristic of the Acrysof lenses that would constitute a new technology class.

The second criterion in Section III of this notice states that the lens must be shown superior to a representative sample of lenses outside of this new class. Not only did Alcon fail to define what the new class is for Acrysof, it also did not provide a systematic comparison of the lens to other IOLs. For example, if Alcon identified Acrysof as a new class of foldables, then a comparison of Acrysof to all foldables would be an example of one systematic comparison.

The third criterion states that the clinical superiority seen is produced by the new material and/or predominant characteristic that defined the new class. As stated above, there was no definitive demonstration that a new class was achieved, nor was there a thorough, systematic comparison of said new class lens to other lenses outside the class. Thus, Alcon failed to meet this third criterion.

The fourth criterion states that the lens in question must have received FDA approval for the claimed superiority. The FDA did approve Acrysof's claims of superiority in reduced LEC migration and reduced incidence of Nd:YAG posterior

capsulotomy as compared to one similarly designed PMMA IOL (PMMA is the only type of non-foldable IOL currently being distributed). However, the FDA has not approved a claim that Acrysof is superior to all non-foldable lenses or to any other type of foldable lens. Therefore, Alcon has not met criterion four. We conclude that the Acrysof lenses described in this notice are not NTIOLs, and, therefore, not eligible for the additional \$50 payment.

Authority: Sections 1832 (a)(2)(F)(i) and 1833(i)(2)(A) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)(i) and 1395l(i)(2)(A). (Catalog of Federal Domestic Assistance Program No. 93.773 Medicare-Hospital Insurance Program; and No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: January 20, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02-4354 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3087-N]

Medicare Program; Meeting of the Executive Committee of the Medicare Coverage Advisory Committee—April 16, 2002

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

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Executive Committee (the Committee) of the Medicare Coverage Advisory Committee (MCAC). The Committee provides advice and recommendations to us about clinical issues. The Committee will act upon recommendations from the Diagnostic Imaging Panel of the MCAC regarding whether and when it is scientifically justified to use FDG Positron Emission Tomography or other neuroimaging devices for the diagnosis and patient management of those with Alzheimer's disease.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)).

DATES: *The Meeting:* April 16, 2002 from 8 a.m. until 4:30 p.m., E.D.T.

Deadline for Presentations and Comments: March 27, 2002, 5 p.m., E.D.T.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by March 18, 2002 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at the Baltimore Convention Center, Room 321-322, One West Pratt Street, Baltimore, MD 21201.

Presentations and Comments: Submit formal presentations and written comments to Janet A. Anderson, Executive Secretary; Office of Clinical Standards and Quality; Centers for Medicare & Medicaid Services; 7500 Security Boulevard; Mail Stop C1-09-06; Baltimore, MD 21244.

Website: You may access up-to-date information on this meeting at www.hcfa.gov/coverage.

Hotline: You may access up-to-date information on this meeting on the CMS Advisory Committee Information Hotline, 1-877-449-5659 (toll free) or in the Baltimore area (410) 786-9379.

FOR FURTHER INFORMATION CONTACT: Janet A. Anderson, Executive Secretary, 410-786-2700.

SUPPLEMENTARY INFORMATION: On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) to describe the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces the following April 16, 2002 public meeting of the Executive Committee (the Committee) of the MCAC.

Current Panel Members

Harold C. Sox, M.D.; Daisy Alford-Smith, Ph.D.; Wade Aubry, M.D.; Linda Bergthold, Ph.D.; Ronald M. Davis, M.D.; John H. Ferguson, M.D.; Leslie P. Francis, J.D., Ph.D.; Alan M. Garber, M.D., Ph.D.; Thomas V. Holohan, M.D., M.A.; Michael D. Maves, M.D., M.B.A.; Barbara J. McNeil, M.D., Ph.D.; Robert L. Murray, Ph.D.; Frank J. Papatheofanis, M.D., Ph.D.; Randel E. Richner, M.P.H.

Meeting Topic

The Committee will act on recommendations from the Diagnostic Imaging Panel of the MCAC regarding FDG Positron Emission Tomography imaging for Alzheimer's disease, mild cognitive impairment, and dementia.

Procedure and Agenda

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 90 minutes. The

Committee may limit the number and duration of oral presentations to the time available. If you wish to make a formal presentation, you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section of this notice, and submit the following by the *Deadline for Presentations and Comments* date listed in the **DATES** section of this notice: a brief statement of the general nature of the evidence or arguments you wish to present, and the names and addresses of proposed participants. A written copy of your presentation must be provided to the Executive Secretary before offering your public comments. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow approximately a 30-minute open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote, and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 31, 2002.

Jeffrey L. Kang,

Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 02-3986 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1214-N]

Medicare Program; March 25-26, 2002, Meeting of the Practicing Physicians Advisory Council

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

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory

Council. The Council will be meeting to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary of the Department of Health and Human Services. These meetings are open to the public.

DATES: The meeting is scheduled for March 25, 2002, from 8:30 a.m. until 5 p.m. e.s.t., and March 26, 2002, from 8:30 a.m. until 1 p.m. e.s.t.

ADDRESSES: The meeting will be held in Room 800, 8th Floor, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Meeting Registration: Persons wishing to attend this meeting must contact Diana Motsiopoulos, Administrative Officer, at dmotsiopoulos@cms.hhs.gov or (410) 786-3379, at least 72 hours in advance to register. Persons not registered in advance, will not be permitted into the building and will not be permitted to attend the meeting. Persons attending the meeting will be required to show a photographic identification, preferably a valid driver's license, before entering the building.

FOR FURTHER INFORMATION CONTACT: Paul Rudolf, M.D., J.D., Executive Director, Practicing Physicians Advisory Council, 7500 Security Blvd., Mail Stop C5-17-14, Baltimore, MD 21244-1850, 410-786-3379. News media representatives should contact the CMS Press Office, (202) 690-6145. Please refer to the CMS Advisory Committees Information Line (1-877-449-5659 toll free)/(410-786-9379 local) or the Internet at <http://www.hcfa.gov/medicare/ppacsite.htm> for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services not later than December 31 of each year.

The Council consists of fifteen physicians, each of whom must have submitted at least two hundred fifty claims for physicians' services under

Title XVIII in the previous year. Members shall include both participating and nonparticipating physicians, and physicians practicing in rural and under served urban areas. At least eleven members of the Council shall be physicians as described in section 1861(r)(1) (that is, M.D. or D.O.). The remaining four members may include dentists, podiatrists, optometrists and chiropractors. Members serve for overlapping 4-year terms; terms of more than 2 years are contingent upon the renewal of the Council by appropriate action prior to its termination. Section 1868(a) of the Act provides that nominations to the Secretary for Council membership must be made by medical organizations representing physicians.

The Council held its first meeting on May 11, 1992.

The current members are: Jerold M. Aronson, M.D.; James Bergeron, M.D.; Richard Bronfman, D.P.M.; Joseph Heyman, M.D.; Sandral Hullett, M.D.; Stephen A. Imbeau, M.D.; Joe Johnson, D.O.; Angelyn L. Moultrie-Lizana, D.O.; Dale Lervick, O.D.; Michael T. Rapp, M.D.; Sandra B. Reed, M.D.; Amilu Rothhammer, M.D.; Victor Vela, M.D.; Kenneth M. Viste, Jr., M.D.; and Douglas L. Wood, M.D.

The meeting will commence with a Council update on the status of prior recommendations, followed by discussion and comment on the following agenda topics:

- Physician's Regulatory Issues Team Update
- Update on Physician Fee Schedule
- Sustainable Growth Rate 2003
- Evaluation & Management Guidelines
- Health Insurance Portability & Accountability Act Privacy Rule
- Contractor Billing and Operations—Claims Processing

For additional information and clarification on these topics, contact the Executive Director, listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual physicians or medical organizations that represent physicians wishing to make a 5-minute oral presentation on agenda issues should contact the Executive Director by 12 noon, March 11, 2002, to be scheduled. Testimony is limited to agenda topics only. The number of oral presentations may be limited by the time available. A written copy of the presenter's oral remarks must be submitted to Diana Motsiopoulos, Administrative Officer no later than 12 noon, March 11, 2002, for distribution to Council members for review prior to the meeting. Physicians and medical organizations not scheduled to speak

may also submit written comments to the Administrative Officer for distribution. The meeting is open to the public, but attendance is limited to the space available. Individuals requiring sign language interpretation for the hearing impaired or other special accommodation should contact Diana Motsiopoulos at dmotsiopoulos@cms.hhs.gov or (410) 786-3379 at least 10 days before the meeting.

Authority: (Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92-463 (5 U.S.C. App. 2, section 10(a)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 19, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02-4356 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held by teleconference on March 6, 2002, from 12:30 p.m. to 4:30 p.m.

Location: Food and Drug Administration, Bldg. 29, conference room 121, 8800 Rockville Pike, Bethesda, MD. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting.

Contact Person: Jody G. Sachs or Denise H. Royster, Center for Biologics Evaluation and Research (CBER) (HFM-71), Food and Drug Administration,

1401 Rockville Pike, Rockville, MD 20852, 301-827-0314, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will complete recommendations pertaining to the influenza virus vaccine formulation for the 2002-2003 season, and review and discuss the research programs of the following two CBER Laboratories: Laboratories of Hepatitis Virus and the Laboratory of Vector-borne Viral Diseases.

Procedure: On March 6, 2002, from 12:30 p.m. to 3:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 25, 2002. Oral presentations from the public will be scheduled between approximately 2 p.m. and 2:30 p.m., and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 25, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On March 6, 2002, from 3:30 p.m. to 4:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The meeting will be closed to discuss personal information concerning individuals associated with the research programs.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jody G. Sachs or Denise H. Royster at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the Vaccines and Related Biological Products Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Vaccines and Related

Biological Products Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 17, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02-4378 Filed 2-20-02; 1:27 pm]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Study of Testicular Germ Cell Cancer in U.S. Military Servicemen: Substudy of Maternal Risk Factors

SUMMARY: Under the provisions of section 3607(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 23, 2001, page 44362 and allowed 60 days for public comment. One public comment was received that is being addressed in the study. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays valid OMB control number.

Proposed Collection

Title: Study of Testicular Germ Cell Cancer in U.S. Military Servicemen: Substudy of Maternal Risk Factors. **Type of Information Collection Request:** NEW. **Need and Use of Information Collection:** This study will seek to determine the causes of testicular germ cell cancer. The incidence rate of testicular cancer has been increasing for most of the twentieth century. It is the most common tumor among men between the ages of 15 and 35 years, yet its risk factors remain poorly understood. Servicemen are being studied because they are the right age group and

testicular cancer is the common cancer among men in the service. The cancer's relatively young age of onset and its association with several congenital anomalies indicate that events during in-utero life may place men at risk of this tumor. Therefore, this study seeks to interview the mothers of men who developed testicular cancer and mothers of men who did not develop testicular cancer. Mothers will be asked about events surrounding pregnancy with the son and early life events.

Frequency of Response: One interview is requested. **Affected Public:**

Individuals. Type of Respondents: Mothers of servicemen who were diagnosed with testicular cancer and mothers of servicemen who were not diagnosed with testicular cancer. The annual reporting burden is as follows:

Estimated Number of Respondents: 520;

Estimated Number of Responses per Respondent: 1; **Average Burden Hours Per Response:** 1.0; and

Estimated Total Annual Burden Hours Requests: 520. The annualized cost to respondents is estimated at: \$0. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more

information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Katherine A. McGlynn, Environmental Epidemiology Branch, DCEG, NCI, NIH, Executive Plaza South, Room 7060, 6120 Executive Boulevard, Bethesda, MD 20892-7234, or call non-toll-free number (301) 435-4918 or E-mail your request, including your address: mcglynn@mail.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: February 14, 2002.

Reese L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02-4297 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Reagents to Examine the Expression and Function of CYP2J Subfamily P450s

Darryl Zeldin and Alyce Bradbury (NIEHS)

DHHS Reference No. E-033-02/0—Research tool

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Cytochromes P450 catalyze the NADPH-dependent oxidation of arachidonic acid to various eicosanoids found in several species. The eicosanoids are biosynthesized in numerous tissues including pancreas, intestine, kidney, heart, and lung where they are involved in many different biological activities.

The NIH announces cloned cDNAs for several different CYP2J subfamily members and specific peptide-based antibodies to the P450 proteins. The reagents available for licensing include: human CYP2J2 cDNA, rat CYP2J3 cDNA, mouse CYP2J5 cDNA, mouse CYP2J9 cDNA, anti-CYP2J2rec, anti-CYP2J2pep2, anti-CYP2J9pep2, anti-CYP2J5pep, anti-CYP2J6pep, and insect cell microsomes expressing catalytically active CYP2J2. These reagents can be used to examine the expression of the CYP2J subfamily at the RNA and protein level and can be used to screen drugs for possible metabolism by the CYP2J2 subfamily P450s and/or to identify endogenous substrates for the enzyme. The recombinant protein may also be used to investigate cross-reactivity for other antibodies.

Polyclonal Antibody to Detect Human Membrane-Bound Prostaglandin E Synthase

Dr. Thomas Eling et al. (NIEHS)

DHHS Reference No. E-032-02/0—Research Tool

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Prostaglandin endoperoxide H₂ (PGH₂) is formed from arachidonic acid by the action of cyclooxygenases (cox)-1 or -2. Human prostaglandin E synthase (PGES) is a member of a protein superfamily consisting of membrane-associated proteins involved in eicosanoid and glutathione metabolism. PGE₂ a specific prostaglandin, is formed from PGH₂ by PGES and is then further metabolized into various eicosanoids. It has been reported that the membrane-bound mPGES is linked to cox-2 protein, which may be induced by proinflammatory cytokines such as IL-1 β at sites of inflammation.

The NIH announces a polyclonal antibody capable of detecting human mPGES. It is anticipated that the use of this antibody in western analysis, immunostaining and immunoprecipitation studies will aid researchers in understanding prostaglandin creation and could eventually lead to the development of new anti-inflammatory agents.

Amyloid Beta is a Ligand for FPR Class Receptors

Dr. Ji Ming Wang et al. (NCI)

DHHS Reference No. E-336-01/0 filed 26 Oct 2001

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Alzheimer's disease is the most important dementing illness in the United States because of its high prevalence. Five to ten percent of the United States population 65 years and older are afflicted with the disease. In 1990 there were approximately 4 million individuals with Alzheimer's, and this number is expected to reach 14 million by the year 2050. It is the fourth leading cause of death for adults, resulting in more than 100,000 deaths annually. Amyloid beta has been identified as playing an important role in the neurodegeneration of Alzheimer's disease. However, the mechanism by which this occurred was unknown, but has been postulated to be either direct or indirect through an induction of inflammatory responses.

The NIH announces the identification of the 7-transmembrane, G-protein-coupled receptor, FPRL-1, in the cellular uptake and fibrillar aggregation of amyloid $\beta\beta$ (A $\beta\beta$) peptides. The A $\beta\beta$ peptides use the FPRL-1 receptor to attract and activate human monocytes and mouse microglial cells (publications referenced below), and have been identified as a principal component of the amyloid plaques associated with Alzheimer's disease. In addition, the known anti-inflammatory drug, Colchicine, has been shown to inhibit the FPRL1 activation by amyloid and the internalization of FPRL1/amyloid beta complexes.

This research has been published in Tiffany et al., "Amyloid-beta induces chemotaxis and oxidant stress by acting at formylpeptide receptor 2 (FPR2), a G protein-coupled receptor expressed in phagocytes and brain", *J. Biol. Chem.* 276(26):23645-52, 2001, and Cui et al., "Bacterial lipopolysaccharide selectively up-regulates the function of the chemotactic peptide receptor FPR2 in murine microglial cells", *J. Immunol.* 168: 434-442, 2002.

System for in vivo Site-Directed Mutagenesis Using Oligonucleotides

Dr. Francesca Storici et al. (NIEHS)

DHHS Reference No. E-204-01/0 filed 27 Jul 2001

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Through the use of molecular techniques to induce mutagenesis, along

with genetic functionality data, a large body of information is now available to characterize eukaryotic genomes. Yet with all the advancements seen, the techniques used have been unable to produce clean sequence modifications that contain no heterologous material and are flexible and easy to use.

The NIH announces a new technology wherein unpurified oligonucleotides can be used to create in vivo specific mutations that do not retain heterologous material following mutagenesis. This technology is versatile in that it will allow for site-specific mutagenesis as well as random mutagenesis within a localized area and is applicable to all organisms where homologous recombination is or can be performed. The technology allows for the generation of mutated products in vivo that contain only the desired mutation and can be used in multiple rounds of specific or random changes of up to 200 base pairs.

Fluorescent Magnesium Indicators

Drs. Robert E. London, Pieter Otten, and Louis A. Levy (NIEHS)
Serial No. 60/191,862 filed 24 Mar 2000
and Serial No. 09/816,638 filed on 23 Mar 2001

Licensing Contact: Pradeep Ghosh; 301/496-7736 ext. 211; e-mail: ghoshp@od.nih.gov

Magnesium is essential to many physiochemical processes and plays a central role in the biochemistry of all cells. Many epidemiological studies have established close association between plasma magnesium levels and various diseases including ischaemic heart disease, hypertension, atherosclerosis, osteoporosis, neurological disorders and other chronic illnesses. However, methods and tools to measure selectively ionized magnesium levels in cell preparations or in the body with accuracy and reliability are still lacking in the market today. The present invention pertains to analytical elements and methods for the selective determination of magnesium. In particular, the present invention relates to carboxy-quinolizones and their use as magnesium indicators. Thus, the present invention provides novel fluorescent indicators that are selective for Mg^{2+} . This invention utilizes fluorescence spectroscopy as a tool in monitoring intracellular or extracellular levels of magnesium. This is a non-invasive approach in which ion levels or ion fluxes induced by extracellular stimuli that can be monitored in real time. Current approaches used to measure devices to measure ionized intracellular magnesium in the body generally involve magnetic resonance

spectroscopy to analyze intracellular ATP (adenosine triphosphate) signals. This approach is extremely expensive and subject to very poor accuracy. Unlike other methods and indicators, the composition and methods of this invention provide compounds with significantly increased abilities to accurately measure intracellular and extracellular Mg^{2+} levels in a wide variety of cells. Further, an extended application of this invention relates to the monitoring of the effects of drugs, medicines or toxins that alter the intracellular magnesium levels via changes in cellular ATP levels.

Novel Anti-Thrombin Peptide From the Salivary Gland of *Anopheles albimanus*

Jesus G. Valenzuela, Jose Ribeiro, Ivo Francischetti (NIAID)
Serial No. 60/141,423 filed 29 Jun 1999
and PCT/US00/18078 filed 29 Jun 2000

Licensing Contact: Pradeep Ghosh; 301/496-7736 ext. 211; e-mail: ghoshp@od.nih.gov

Currently, there exists a need for effective bio-pharmacogenic inhibitors that can inhibit clot formation and platelet aggregation without lethal side effects. Blood clot formation resulting from platelet aggregation and chemical release may lead to several fatal vascular diseases such as myocardial infarction, strokes, pulmonary embolism, deep vein thrombosis, peripheral arterial occlusion and other cardiovascular thromboses. This invention pertains to the isolation and sequencing of an anticoagulant inhibitor. In particular, the invention describes the nucleic acid and amino acid sequences of anti-thrombin peptide anophelin, isolated from the salivary glands of the mosquito *Anopheles albimanus*. Alpha-thrombin has been reported to play an important role in the platelet dependent arterial thrombus formation leading to several life-threatening vascular diseases including myocardial infarction and strokes. The mosquito salivary anophelin described in this invention, referenced in Valenzuela et. al. Biochemistry. 1999 Aug 24;38(34):11209-15, is a novel, specific, tight-binding and effective inhibitor of alpha-thrombin. Biochemically, anophelin is a 6.5 kDa peptide that is easily synthesized, has no similarity to hirudin, and has no cysteines. The interaction of anophelin with anti-thrombin inhibits platelet aggregation and blood clotting. The current invention may be effectively administered in subjects, including humans, to inhibit alpha-thrombin activity by inhibiting platelet aggregation.

Identification of Compounds That Potentiate the Activity of Muscarinic Potassium Channels

David L. Armstrong and Desuo Wang (NIEHS)

DHHS Reference Nos. E-265-98/0 filed 30 Nov 2000 and E-265-98/1 filed 29 Nov 2001

Licensing Contact: Pradeep Ghosh; 301/496-7736 ext. 211; e-mail: ghoshp@od.nih.gov

Heart disease is one of the major causes of mortality in developed and developing countries. Potassium channel proteins regulate the excitability of heart muscle, and drugs that open potassium channels have been useful in treating human disease. The present invention describes a novel and G-protein independent mechanism for selectively stimulating muscarinic potassium channels (KIR 3.1/3.4 or KACH). KACH channels are a specific heteromeric class of potassium channels that regulate the excitability of atrial and nodal myocytes in the heart in response to muscarinic receptor stimulation. Specifically, the present invention relates to compounds that potentiate the activity of muscarinic potassium channels in mammalian atrial myocytes and can treat cardiac disease. The present invention provides a novel mechanism for selectively stimulating KACH channels with tetraethylammonium (Wang & Armstrong 2000 J. Physiol. 529, 699-705. New drugs that selectively target the TEA site in the potassium channel without blocking other potassium channels may be able to relax the heart. Because TEA has been shown to enhance basal potassium channel activity without blocking or potentiating muscarinic stimulation, the danger of stopping the heart by targeting this site is minimized. In addition, because KACH channels are expressed primarily in atrial and nodal myocytes, the action potential duration would be shortened selectively in atrial and nodal myocytes leading to slower pacemaker initiation and impulse conduction without reducing ventricular force. Thus, identification of new drugs that target the TEA-site reported in this invention could have great market potential.

Dated: February 12, 2002.

Jack Spiegel,

Director, Division of Technology,
Development and Transfer, Office of
Technology Transfer, National Institutes of
Health.

[FR Doc. 02-4296 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the Cancer Advisory Panel for Complementary and Alternative Medicine (CAPCAM).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) Title 5 U.S.C., as amended, for the discussion could disclose confidential trade secrets or commercial property, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cancer Advisory Panel for Complementary and Alternative Medicine.

Date: February 25, 2002.

Closed: 8:30 am to 1:00 pm.

Agenda: The agenda will include summaries of RAND Process, IAT, Naltrexone and Homeopathy reports.

Open: 1:00 pm to adjournment.

Agenda: The agenda will include summaries of BCS, RAND Process, NCCAM activities and OCCAM activities and other panel business.

Place: Bethesda Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20817.

Contact Person: Richard Nahin, Ph.D., Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, MD 20892, 301/496-7801.

The public comments session is scheduled from 1:00 to 1:30 pm. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Richard Nahin, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301-496-7801, Fax 301-480-3621. Letters of intent of present comments, along with a brief description of the organization represented, should be received no later than 5:00 pm on February 20, 2002. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In

addition, written comments may be submitted to Dr. Nahin at the address listed above up to ten calendar days (March 11, 2002) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by Dr. Richard Nahin, Executive Secretary, CAPCAM, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301-496-7801, Fax 301-480-3621. This meeting is being published less than 15 days prior to the meeting due to scheduling conflicts.

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 02-4292 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 26, 2002.

Time: 8:30 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marita R. Hopmann, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E91, Bethesda, MD 20892, (301) 435-6911, hopmannm@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: February 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4290 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 22, 2002.

Open: 7:45 AM to 8:05 AM.

Agenda: Reports from Institute staff.

Place: 5 Research Court, Conference Room 2A-07, Rockville, MD 20850.

Closed: 8:15 AM to 2:20 PM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: 5 Research Court, Conference Room 2A-07, Rockville, MD 20850.

Contact Person: Robert J. Wenthold, PhD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B28, Rockville, MD 20852. 301-402-2829.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173 Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4293 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Innovation Technologies for Hazardous Waste Site Remediation and Monitoring.

Date: March 26-28, 2002.

Time: 7:00 PM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Suites Hotel, 300 Meredith Drive, Durham, NC 27713.

Contact Person: Brenda K Weis, PhD, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC-30, Research Triangle Park, NC 27709, 919/541-4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic

Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4294 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Analytical Techniques Program".

Date: February 27, 2002.

Time: 1:30 AM to 4:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute of Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Technologies for Localizing Gene Expression and Proteins in the Nervous System".

Date: February 28, 2002.

Time: 10:30 AM to 12:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute of Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Medicinal Chemistry—Design and Synthesis of Treatment Agents for Drug Abuse".

Date: March 13, 2002.

Time: 9:00 AM to 11:00 AM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute of Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438. (Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4295 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 18, 2002, 4 p.m. to February 18, 2002, 5 p.m., NIH, Rockledge 2, Bethesda, MD, 20892 which was published in the **Federal Register** on February 7, 2002, 67 FR 5841-5842.

The meeting will be held on February 25, 2002, from 2 p.m. to 3 p.m. The location remains the same. The meeting is closed to the public.

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4291 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4730-N-08]****Federal Property Suitable as Facilities To Assist the Homeless**

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where

property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B-41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable. For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501-0052; Energy: Mr. Tom Knox,

Department of Energy, Office of Engineering & Construction Management, CR-80, Washington, DC 20585; (202) 586-8715; Navy: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374-5065; (202) 685-9200; (These are not toll-free numbers).

Dated: February 14, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

**Title V, Federal Surplus Property Program
Federal Register Report for 2/22/02**

Suitable/Available Properties

Buildings (by State)

Arkansas

Social Security Admin Bldg
337 West Main Street
El Dorado Co: Union AR 71730-
Landholding Agency: GSA
Property Number: 54200210006
Status: Surplus
Comment: 6868 sq. ft., most recent use—
office building
GSA Number : 7-G-AR-0561

California

Bldg. 371
Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020080
Status: Unutilized
Comment: 29,800 sq. ft., needs rehab,
presence of asbestos/lead paint, off-site use
only

Bldg. 402

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020081
Status: Unutilized
Comment: presence of lead paint, most recent
use—storage, off-site use only

Bldg. 417

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020082
Status: Unutilized
Comment: 110 TR, needs rehab, presence of
asbestos/lead paint, off-site use only

Bldg. 418

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020083
Status: Unutilized
Comment: 288 sq. ft., presence of lead paint,
most recent use—storage, off-site use only

Bldg. 426

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020084
Status: Unutilized
Comment: presence of asbestos/lead paint,
off-site use only

Bldg. 434
Naval Warfare Systems Center
San Diego Co: CA 92152—
Landholding Agency: Navy
Property Number: 77200020085
Status: Unutilized
Comment: 11,440 sq. ft., needs rehab,
presence of asbestos/lead paint, off-site use
only

Bldg. 210
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020086
Status: Unutilized
Comment: 17,708 sq. ft., needs rehab,
presence of asbestos/lead paint, most
recent use—police station, off-site use only

Bldg. 541
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020087
Status: Unutilized
Comment: 3857 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
lab, off-site use only

Bldg. 804
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020088
Status: Unutilized
Comment: 3119 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
admin., off-site use only

Bldg. 805
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020089
Status: Unutilized
Comment: 3732 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
storage, off-site use only

Bldg. 806
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020090
Status: Unutilized
Comment: 3110 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
office, off-site use only

Bldg. 807
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020091
Status: Unutilized
Comment: 3110 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
office, off-site use only

Bldgs. 23027, 23025
Marine Corps Air Station
Miramar Co: San Diego CA 92132—
Landholding Agency: Navy
Property Number: 77200040023
Status: Unutilized
Comment: 400 sq. ft., metal siding, most
recent use—loading facility, off-site use
only

Bldg. 01290
Naval Air Weapons Station

China Lake Co: CA 93555—6100
Landholding Agency: Navy
Property Number: 77200120090
Status: Excess
Comment: 460 sq. ft., most recent use—
garage, off-site use only

Bldg. 02453
Naval Air Weapons Station
China Lake Co: CA 93555—6001
Landholding Agency: Navy
Property Number: 77200120110
Status: Excess
Comment: 48 sq. ft., most recent use—storage
locker, off-site use only

Bldg. 32027
Naval Air Weapons Station
China Lake Co: CA 93555—6001
Landholding Agency: Navy
Property Number: 77200120111
Status: Excess
Comment: 331 sq. ft., off-site use only

Bldg. 32534
Naval Air Weapons Station
China Lake Co: CA 93555—6001
Landholding Agency: Navy
Property Number: 77200120112
Status: Excess
Comment: 2252 sq. ft., most recent use—
repair shop, off-site use only

Bldg. 32537
Naval Air Weapons Station
China Lake Co: CA 93444—6001
Landholding Agency: Navy
Property Number: 77200120113
Status: Excess
Comment: most recent use—instrument
bldg., off-site use only

Florida
Bldgs. 5435, 5439
Iroquois Point Navy Housing
Edgewater Drive
Ewa Beach Co: FL 96705—
Landholding Agency: Navy
Property Number: 77200210021
Status: Unutilized
Comment: 1879 sq. ft. each, need repairs,
presence of asbestos/lead paint, most
recent use—residential, off-site use only

Hawaii
Bldg. S87, Radio Trans. Fac.
Lualualei, Naval Station, Eastern Pacific
Wahiawa Co: Honolulu HI 96786—3050
Landholding Agency: Navy
Property Number: 77199240011
Status: Unutilized
Comment: 7566 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only

Bldg. 64, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786—3050
Landholding Agency: Navy
Property Number: 77199310004
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access
restrictions, needs rehab, most recent use—
storage, off-site use only.

Bldg. 442, Naval Station
Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199630088
Status: Excess
Comment: 192 sq. ft., most recent use—
storage, off-site use only

Bldg. S180
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640039
Status: Unutilized
Comment: 3412 sq. ft., 2-story, most recent
use—bomb shelter, off-site use only,
relocation may not be feasible

Bldg. S181
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640040
Status: Unutilized
Comment: 4258 sq. ft., 1-story, most recent
use—bomb shelter, off-site use only,
relocation may not be feasible

Bldg. 219
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640041
Status: Unutilized
Comment: 620 sq. ft., most recent use—
damage control, off-site use only,
relocation may not be feasible

Bldg. 220
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640042
Status: Unutilized
Comment: 620 sq. ft., most recent use—
damage control, off-site use only,
relocation may not be feasible

Bldg. 160
Naval Station, Pearl Harbor
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199840002
Status: Excess
Comment: 6070 sq. ft., needs rehab, presence
of lead paint, most recent use—storage/
office, off-site use only

Living Quarters
Pearl Harbor 602 Turner Avenue
Honolulu Co: HI 96818
Landholding Agency: Navy
Property Number: 77200210018
Status: Excess
Comment: 4394 sq. ft., 2-story, presence of
asbestos/lead paint, most recent use—
residential, off-site use only

Ofc/Conference Bldg.
Pearl Harbor 602 Turner Avenue
Honolulu Co: HI 96818—
Landholding Agency: Navy
Property Number: 77200210019
Status: Excess
Comment: 6540 sq. ft., presence of asbestos/
lead paint, most recent use—office/
conference, off-site use only

Storage Shed
Pearl Harbor 602 Turner Avenue
Honolulu Co: HI 96818—
Landholding Agency: Navy
Property Number: 77200210020
Status: Excess
Comment: 478 sq. ft., presence of asbestos/
lead paint, most recent use—storage, off-
site use only

Idaho
Bldg. CF603

Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200020004
Status: Excess
Comment: 15,005 sq ft. cinder block,
presence of asbestos/lead paint, major
rehab, off-site use only
CPP657, CPP669, CPP686
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200110001
Status: Excess
Comment: 8000 sq. ft., bldgs. connected,
possible asbestos/lead paint, most recent
use—offices, off-site use only
TAN 615
Idaho Natl Eng. & Env. Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200210008
Status: Excess
Comment: 4214 sq. ft. maintenance bldg.,
presence of asbestos, proper liability
insurance required, off-site use only
Illinois
Milo Comm. Tower Site
350 N. Rt. 8
Milo Co: Bureau IL 56142–
Landholding Agency: GSA
Property Number: 54200020018
Status: Excess
Comment: 120 sq. ft. cinder block bldg.
GSA Number: 1–D–IL–795
LaSalle Comm. Tower Site
1600 NE 8th St.
Richland Co: LaSalle IL 61370–
Landholding Agency: GSA
Property Number: 54200020019
Status: Excess
Comment: 120 sq. ft. cinder block bldg. and
a 300' tower
GSA Number : 1–D–IL–724
Louisiana
Nettles Army Rsv Ctr
1815 N. Bolton Ave.
Alexandria Co: Rapides Parish LA 71303–
Landholding Agency: GSA
Property Number: 54200210007
Status: Surplus
Comment: 12,595 sq. ft. main bldg. & 2640 sq.
ft. shop on 3.8 acres, subject to existing
easements
GSA Number: 7–D–LA–0565
Maryland
Stillpond Housing
521 Round Top Road
Chestertown Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140013
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential
GSA Number : 4–U–MD–603
Stillpond Housing
131 Fairview Drive
Chestertown Co: Queen Ann's MD 21620–
Landholding Agency: GSA
Property Number: 54200140014
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential

GSA Number : 4–U–MD–603
Stillpond Housing
100 Farwell Road
Chestertown Co: Queen Ann's MD 21620–
Landholding Agency: GSA
Property Number: 54200140015
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential, presence of lead paint
GSA Number : 4–U–MD–603
Stillpond Housing
115 Rolling Road
Chestertown Co: Kent MD 21620–
Landholding Agency: GSA
Property Number: 54200140016
Status: Excess
Comment: 750 sq. ft., most recent use—
residential
GSA Number: 4–U–MD–603
Stillpond Housing
303 Oriole Road
Chestertown Co: Queen Ann's MD 21620–
Landholding Agency: GSA
Property Number: 54200140017
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential, presence of lead paint
GSA Number: 4–U–MD–603
Stillpond Housing
213 Manor Avenue
Chestertown Co: Kent MD 21620–
Landholding Agency: GSA
Property Number: 54200140018
Status: Excess
Comment: 750 sq. ft., most recent use—
residential
GSA Number: 4–U–MD–603
Bldg. 139
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200010032
Status: Unutilized
Comment: 4950 sq. ft., possible asbestos/lead
paint, most recent use—wind tunnel, off-
site use only
Bldg. 104
Naval Surface Warfare
Carderock Division
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120079
Status: Unutilized
Comment: 8050 sq. ft., most recent use—
garage, off-site use only
Bldg. 109
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5000
Landholding Agency: Navy
Property Number: 77200120080
Status: Unutilized
Comment: 9650 sq. ft., needs rehab, possible
asbestos/lead paint, most recent use—
storage, off-site use only
Bldg. 110
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120081

Status: Unutilized
Comment: 10,750 sq. ft., needs rehab,
presence of asbestos/lead paint, most
recent use—storage, off-site use only
Bldg. 111
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120082
Status: Unutilized
Comment: 4220 sq. ft., most recent use—
office, off-site use only
Bldg. 112
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120083
Status: Unutilized
Comment: 2440 sq. ft., most recent use—
printing bldg., off-site use only
Bldg. 113
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120084
Status: Unutilized
Comment: 2440 sq. ft., most recent use—lab,
off-site use only
Bldg. 143
Naval Surface Warfare
West Bethesda Co: MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120085
Status: Unutilized
Comment: 16,950 sq. ft., needs rehab,
presence of asbestos/lead paint, most
recent use—storage, off-site use only
Bldg. 152
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120086
Status: Unutilized
Comment: 1400 sq. ft., most recent use—fire
house annex, off-site use only
Bldg. 159
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120087
Status: Unutilized
Comment: 605 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
hazardous waste storage, off-site use only
Bldg. 187
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120088
Status: Unutilized
Comment: 768 sq. ft., most recent use—pump
house, off-site use only
Bldg. 117
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–
5700
Landholding Agency: Navy
Property Number: 77200120102

Status: Unutilized
 Comment: 400 sq. ft., needs rehab, most recent use—storage, off-site use only
 Bldg. 196
 Naval Surface Warfare Center
 Carderock Division
 West Bethesda Co: Montgomery MD 20817–5700
 Landholding Agency: Navy
 Property Number: 77200120106
 Status: Unutilized
 Comment: 456 sq. ft., needs rehab, most recent use—destructor bldg., off-site use only
 Massachusetts
 Aircraft Hanger
 Hanscom Air Force Base
 Concord Co: MA
 Landholding Agency: GSA
 Property Number: 54200140007
 Status: Excess
 Comment: 40,000 sq. ft., off-site use only, relocating property may not be feasible
 GSA Number: 1–D–MA–0857679
 Minnesota
 GAP Filler Radar Site
 St. Paul Co: Rice MN 55101–
 Landholding Agency: GSA
 Property Number: 54199910009
 Status: Excess
 Comment: 1266 sq. ft., concrete block, presence of asbestos/lead paint, most recent use—storage, zoning requirements, preparations for a Phase I study underway, possible underground storage tank
 GSA Number: 1–GR(1)–MN–475
 New Hampshire
 Bldg. 239
 Portsmouth Naval Shipyard
 Portsmouth Co: NH 03804–5000
 Landholding Agency: Navy
 Property Number: 77200030019
 Status: Excess
 Comment: 897 sq. ft., presence of asbestos/lead paint, off-site use only
 New Jersey
 Bldg. 2111
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210022
 Status: Unutilized
 Comment: 7860 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2112
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210023
 Status: Unutilized
 Comment: 9720 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2113
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy

Property Number: 77200210024
 Status: Unutilized
 Comment: 6620 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2114
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210025
 Status: Unutilized
 Comment: 6200 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2115
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210026
 Status: Unutilized
 Comment: 7440 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2212, 2214
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210027
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2216, 2218
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210028
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2220, 2222
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210029
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2224, 2226
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210030
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2241
 Fort Monmouth
 Charles Wood Area

Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210031
 Status: Unutilized
 Comment: 4692 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2242
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210032
 Status: Unutilized
 Comment: 5052 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2243, 2245
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210033
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2246, 2247
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210034
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2248, 2249
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210035
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2250, 2251
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210036
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2252, 2253
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210037
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2254, 2255, 2256

Fort Monmouth
Charles Wood Area
Ft. Monmouth Co: NJ 07703–
Landholding Agency: Navy
Property Number: 77200210038
Status: Unutilized
Comment: 4692 sq. ft. each, need extensive
repairs, presence of asbestos/lead paint,
most recent use—family housing, off-site
use only

New York
“Terry Hill”
County Road 51
Manorville NY
Landholding Agency: GSA
Property Number: 54199830008
Status: Surplus
Comment: 2 block structures, 780/272 sq. ft.,
no sanitary facilities, most recent use—
storage/comm. facility, w/6.19 acres in fee
and 4.99 acre easement, remote area
GSA Number: 1–D–NY–864

Binghampton Depot
Nolans Road
Binghampton Co: NY 00000–
Landholding Agency: GSA
Property Number: 54199910015
Status: Excess
Comment: 45,977 sq. ft., needs repair,
presence of asbestos, most recent use—
office
GSA Number: 1–G–NY–760A

Lockport Comm. Facility Annex
6625 Shawnee Road
Wheatfield Co: NY 14120–
Landholding Agency: GSA
Property Number: 54200120009
Status: Excess
Comment: 3334 sq. ft., presence of asbestos,
most recent use—admin/storage
GSA Number: 1–D–NY–885

ROVA NHS Laboratory
4097 Albany Post Road
Hyde Park Co: NY 12538–
Landholding Agency: GSA
Property Number: 54200140008
Status: Excess
Comment: 2491 sq. ft., pre-engineered metal,
most recent use—lab/storage, off-site use
only
GSA Number: 1–I–NY–891

USCG Throg’s Neck Housing
Ft. Schuyler Co: Bronx NY
Landholding Agency: GSA
Property Number: 54200210009
Status: Excess
Comment: 4000 sq. ft. w/garage, presence of
lead paint, possible asbestos, most recent
use—residential, potential for flooding
GSA Number: 1–U–NY–883

North Dakota
Storage Bldg.
117 W. Main St.
Bismarck Co: Burleigh ND 58501–
Landholding Agency: GSA
Property Number: 54200140009
Status: Surplus
Comment: 3200 sq. ft., most recent use—
storage, eligible for listing on the Natl
Register for Historic Places
GSA Number: 7–G–ND–0406

Texas
Federal Courthouse

521 Starr Street
Corpus Christi Co: Nueces TX 78401–
Landholding Agency: GSA
Property Number: 54200140011
Status: Excess
Comment: 6000 sq. ft., needs maintenance,
eligible for Natl Register of Historic Places
GSA Number: 7–G–TX–1049

Social Security Admin Bldg
405 East Levee
Brownsville Co: Cameron TX 78520–
Landholding Agency: GSA
Property Number: 54200210011
Status: Surplus
Comment: 6754 sq. ft., good condition, most
recent use—office building
GSA Number: 7–G–TX–1068

Virginia
Structure SP–129
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110136
Status: Excess
Comment: 3564 sq. ft., presence of asbestos/
lead, most recent use—office, off-site use
only

Bldg. CAD17
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210042
Status: Excess
Comment: 2555 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD43
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210043
Status: Excess
Comment: 572 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD99
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210044
Status: Excess
Comment: 400 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD121
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210045
Status: Excess
Comment: 487 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD127
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210046
Status: Excess
Comment: 912 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Washington
Clarkston USARC

721 Sixth St.
Clarkston Co: Asotin WA
Landholding Agency: GSA
Property Number: 54200140003
Status: Excess
Comment: total approx. 5043 sq. ft., presence
of asbestos, most recent use—military
reserve center/office
GSA Number: 9–D–WA–1196

Wyoming
Medicine Bow Field Ofc.
510 Utah St.
Medicine Bow Co: Carbon WY 82329–0006
Landholding Agency: GSA
Property Number: 54200210013
Status: Surplus
Comment: 2360 sq. ft. office building and
garage, good condition
GSA Number: 7–A–WY–0536–2

Land (by State)

Alaska
05.5 acres
Harding Lake Recreation Site
Richardson Highway
Salcha Co: AK 99714–
Landholding Agency: GSA
Property Number: 54200130001
Status: Underutilized
Comment: no utilities, zoned for outdoor
recreation
GSA Number: 9–D–AK–768–1

California
Portion of Land
Naval Base, Point Loma
Murphy Canyon
San Diego Co: CA 92124–
Landholding Agency: Navy
Property Number: 77200140012
Status: Unutilized
Comment: 24,350 sq. ft. of parking lot,
adjacent to environmentally sensitive area

Missouri
Improved Land
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: MO 63120–1798
Landholding Agency: GSA
Property Number: 54200110007
Status: Surplus
Comment: 21 acres w/2 large bldgs. and
numerous small bldgs. situated on 13
acres, 5 acres = parking lot and streets,
presence of asbestos/lead paint, clean-up
required to state regulator standards
GSA Number : 000000

Ohio
Licking County Tower Site
Summit & Haven Corner Rds.
Pataskala Co: Licking OH 43062–
Landholding Agency: GSA
Property Number: 54200020021
Status: Excess
Comment: Parcel 100 = 3.67 acres, Parcel
100E = 0.57 acres
GSA Number: 1–W–OH–813

Pennsylvania
Naval Air Warfare Center
Hatboro & Bristol Rds.
Northampton Twshp Co: Bucks PA 18954–
Landholding Agency: GSA
Property Number: 54200210010
Status: Excess

Comment: 39 acres, most recent use—
agricultural
GSA Number : 4-F-PA-790

Puerto Rico

Bahia Rear Range Light
Ocean Drive
Catano Co: PR 00632—
Landholding Agency: GSA
Property Number: 54199940003
Status: Excess
Comment: 0.167 w/skeletal tower, fenced, aid
to navigation
GSA Number: 1-T-PR-508

Virginia

Land
Marine Corps Base
Quantico Co: VA 22134—
Landholding Agency: Navy
Property Number: 77200040034
Status: Unutilized
Comment: 4900 sq. ft. open space

Suitable/Unavailable Properties

Buildings (by State)

Florida

Lexington Terrace Housing
Portion of NAS Pensacola
Old Corry Field Rd.
Pensacola Co: Escambia FL 32508—
Landholding Agency: GSA
Property Number: 54200130009
Status: Surplus
Comment: 198 individual housing units,
approximately 400 to 800 sq. ft. per unit,
presence of lead base paint, potential
electric power
GSA Number: 4-N-FL-0735

Georgia

U.S. Post Office/Courthouse
337 W. Broad St.
Albany Co: Dougherty GA 31702—
Landholding Agency: GSA
Property Number: 54200120002
Status: Excess
Comment: 4800 sq. ft., presence of asbestos/
lead paint, historic preservation covenants,
most recent use—Fed. ofcs/P.O./
Courthouse
GSA Number: 4-G-GA-866A

Idaho

Bldg. CFA-613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415—
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comment: 1219 sq. ft., most recent use—
sleeping quarters, presence of asbestos, off-
site use only

Illinois

Radar Communication Link
½ mi east of 116th St.
Co: Will IL
Landholding Agency: GSA
Property Number: 54199820013
Status: Excess
Comment: 297 sq. ft. concrete block bldg.
with radar tower antenna, possible lead
based paint, most recent use—air traffic
control
GSA Number : 2-U-IL-696

Maryland

De LaSalle Bldg.
4900 LaSalle Road
Avondale Co: Prince George MD 20782—
Landholding Agency: GSA
Property Number: 54200020007
Status: Excess
Comment: 130,000 sq. ft., multi-story on
17.79 acres, extensive rehab required,
presence of asbestos/lead paint/pigeon
infestation, subj. to easements, eligible for
Natl Register
GSA Number: 4-G-MD-565A
La Plata Housing
Radio Station Rd.
La Plata Co: Charles MD
Landholding Agency: GSA
Property Number: 54200110006
Status: Excess
Comment: Republished; townhouse complex
of 20 units, 3-bedroom units = 997 sq. ft.,
1115 sq. ft., and 1011 sq. ft., needs rehab,
presence of asbestos/lead paint
GSA Number: 4-N-MD-601

29 Bldgs.

Walter Reed Army Medical Center
Forest Glen Annex, Linden Lane
Silver Spring Co: Montgomery MD 20910—
1246
Location: 24 bldgs. are in poor condition,
presence of asbestos/lead paint, most
recent use—hospital annex, lab, office
Landholding Agency: GSA
Property Number: 54200130012
Status: Excess
Comment: Historic Preservation Covenants
will impact reuse, property will not be
parcelized for disposal, high cost
associated w/maintenance, estimated cost
to renovate \$17 million
GSA Number : 4-D-MD-558-B

Michigan

Natl Weather Svc Ofc
214 West 14th Ave.
Sault Ste. Marie Co: Chippewa MI
Landholding Agency: GSA
Property Number: 54200120010
Status: Excess
Comment: 2230 sq. ft., presence of asbestos,
most recent use—office
GSA Number : 1-C-MI-802

Minnesota

MG Clement Trott Mem. USARC
Walker Co: Cass MN 56484—
Landholding Agency: GSA
Property Number: 54199930003
Status: Excess
Comment: 4320 sq. ft. training center and
1316 sq. ft. vehicle maintenance shop,
presence of environmental conditions
GSA Number : 1-D-MN-575

Missouri

Hardesty Federal Complex
607 Hardesty Avenue
Kansas City Co: Jackson MO 64124-3032
Landholding Agency: GSA
Property Number: 54199940001
Status: Excess
Comment: 7 warehouses and support
buildings (540 to 216,000 sq. ft.) on 17.47
acres, major rehab, most recent use—
storage/office, utilities easement
GSA Number : 7-G-MO-637

North Carolina

Tarheel Army Missile Plant
Burlington Co: Alamance NC 27215—
Landholding Agency: GSA
Property Number: 54199820002
Status: Excess
Comment: 31 bldgs., presence of asbestos,
most recent use—admin., warehouse,
production space and 10.04 acres parking
area, contamination at site—environmental
clean up in process
GSA Number : 4-D-NC-593
Vehicle Maint. Facility
310 New Bern Ave.
Raleigh Co: Wake NC 27601—
Landholding Agency: GSA
Property Number: 54200020012
Status: Excess
Comment: 10,455 sq. ft., most recent use—
maintenance garage
GSA Number : NC076AB

Tennessee

3 Facilities, Guard Posts
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930011
Status: Surplus
Comment: 48-64 sq. ft., most recent use—
access control, property was published in
error as available on 2/11/00
GSA Number : 4-D-TN-594F
4 Bldgs.
Volunteer Army Ammunition Plant
Railroad System Facilities
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930012
Status: Surplus
Comment: 144-2,420 sq. ft., most recent
use—storage/rail weighing facilities/dock,
potential use restrictions, property was
published in error as available on 2/11/00
GSA Number : 4-D-TN-594F

200 bunkers

Volunteer Army Ammunition Plant
Storage Magazines
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930014
Status: Surplus
Comment: approx. 200 concrete bunkers
covering a land area of approx. 4000 acres,
most recent use—storage/buffer area,
potential use restrictions, property was
published in error as available on 2/11/00
GSA Number : 4-D-TN-594F

Bldg. 232

Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930020
Status: Surplus
Comment: 10,000 sq. ft., most recent use—
office, presence of asbestos, approx. 5 acres
associated w/bldg., potential use
restrictions, property was published in
error as available on 2/11/00
GSA Number : 4-D-TN-594F

2 Laboratories

Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930021

Status: Surplus
 Comment: 2000–12,000 sq. ft., potential use/
 lease restrictions, property was published
 in error as available on 2/11/00
 GSA Number: 4–D–TN–594F

3 Facilities
 Volunteer Army Ammunition Plant
 Water Distribution Facilities
 Chattanooga Co: Hamilton TN 37421–
 Landholding Agency: GSA
 Property Number: 54199930022

Status: Surplus
 Comment: 256–15,204 sq. ft., 35.86 acres
 associated w/bldgs., most recent use—
 water distribution system, potential use/
 lease restrictions, property was published
 in error as available on 2/11/00
 GSA Number: 4–D–TN–594F

Naval Hospital
 5720 Integrity Drive
 Millington Co: Shelby TN 38054–
 Location: Bldgs. 98, 100, 103, 105, 111, 114,
 116, 117, 118
 Landholding Agency: GSA
 Property Number: 54200020005
 Status: Excess
 Comment: 9 bldgs., various sq. ft., need major
 rehab

GSA Number : 4–N–TN–648

Marine Corps Rsv Center
 2109 W. Market St.
 Johnson City Co: Washington TN 37604–
 Landholding Agency: GSA
 Property Number: 54200120003
 Status: Surplus
 Comment: Republished; 4 bldgs., presence of
 asbestos/lead paint, possible
 environmental restrictions, most recent
 use—training/storage
 GSA Number : 4–N–TN–0651

Virginia

Naval Medical Clinic
 6500 Hampton Blvd.
 Norfolk Co: Norfolk VA 23508–
 Landholding Agency: Navy
 Property Number: 77199010109
 Status: Unutilized
 Comment: 3665 sq ft., 1 story, possible
 asbestos, most recent use-laundry.

Wisconsin

Wausau Federal Building
 317 First Street
 Wausau Co: Marathon WI 54401–
 Landholding Agency: GSA
 Property Number: 54199820016
 Status: Excess
 Comment: 30,500 sq. ft., presence of asbestos,
 eligible for listing on the Natl Register of
 Historic Places, most recent use—office
 GSA Number : 1–G–WI–593

Army Reserve Center
 401 Fifth Street
 Kewaunee Co: WI 54216–1838
 Landholding Agency: GSA
 Property Number: 54199940004
 Status: Excess

Comment: 2 admin. bldgs. (15,593 sq. ft.), 1
 garage (1325 sq. ft.), need repairs, property
 was published in error as available on 2/
 11/00

GSA Number : 1–D–WI–597

Land (by State)

Florida

Lakeland Federal Property

N. Florida Ave. & Five Oaks St.
 Lakeland Co: Polk FL 33806–
 Landholding Agency: GSA
 Property Number: 54200140001
 Status: Surplus
 Comment: 2.46 acres, former commercial use,
 environmental remediation in process
 GSA Number : 4–G–FL–1092

Mississippi

Proposed Site
 Army Reserve Center
 Waynesboro Co: Wayne MS 39367–
 Landholding Agency: GSA
 Property Number: 54200010005
 Status: Excess
 Comment: 7.60 acres, most recent use—pine
 plantation, periodic flooding, possible
 wetlands on 30–40% of property
 GSA Number : 4–D–MS–0555

Puerto Rico

La Hueca—Naval Station
 Roosevelt Roads
 Vieques PR 00765–
 Landholding Agency: GSA
 Property Number: 54199420006
 Status: Excess
 Comment: 323 acres, cultural site

Tennessee

1500 acres
 Volunteer Army Ammunition Plant
 Chattanooga Co: Hamilton TN 37421–
 Landholding Agency: GSA
 Property Number: 54199930015
 Status: Surplus
 Comment: scattered throughout facility, most
 recent use—buffer area, steep topography,
 potential use restrictions, property was
 published in error as available on 2/11/00
 GSA Number : 4–D–TN–594F

Virginia

Naval Base
 Norfolk Co: Norfolk VA 23508–
 Location: Northeast corner of base, near
 Willoughby housing area.
 Landholding Agency: Navy
 Property Number: 77199010156
 Status: Unutilized
 Comment: 60 acres; most recent use—
 sandpit; secured area with alternate access.

2.6 acres

Naval Station
 Norfolk Co: VA 23508–1273
 Landholding Agency: Navy
 Property Number: 77200120131
 Status: Underutilized
 Comment: most recent use—brush/debris
 storage

1.15 acres
 Naval Amphibious Base Little Creek

Norfolk Co: VA 23508–
 Landholding Agency: Navy
 Property Number: 77200120132
 Status: Unutilized
 Comment: most recent use—open space

Unsuitable Properties

Buildings (by State)

Alabama

Sand Island Light House
 Gulf of Mexico
 Mobile AL
 Landholding Agency: GSA
 Property Number: 54199610001
 Status: Excess

Reason: Inaccessible
 GSA Number : 4–U–AL–763
 Mobile Point Light
 Gulf Shores Co: Baldwin AL 36542–
 Landholding Agency: GSA
 Property Number: 54199940011
 Status: Excess
 Reason: Within 2000 ft. of flammable or
 explosive material
 GSA Number : 4–U–AL–767
 Federal Building
 999 West Main Street
 Centre Co: Cherokee AL 35960
 Landholding Agency: GSA
 Property Number: 54200130003
 Status: Excess
 Reason: Within airport runway clear zone
 GSA Number : 4–G–AL–770

Arizona

Bldg. 958
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200040001
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1216
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200040002
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 676
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200040003
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 321
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110001
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 322
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110002
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 331
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110003
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 332
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110004
 Status: Excess
 Reason: Extensive deterioration
 California
 Bldgs. 20106, 20195
 Naval Air Weapons Station

China Lake Co: CA 93555–
Landholding Agency: Navy
Property Number: 77199930001
Status: Excess
Reasons: Secured Area, Extensive deterioration
Bldgs. 40, 62
Naval Air Station, North Island
Imperial Beach Co: CA 91932–
Landholding Agency: Navy
Property Number: 77199930024
Status: Excess
Reason: Extensive deterioration
Bldg. 5UT4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930081
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5US4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930082
Status: Unutilized
Reason: Extensive deterioration
Bldg. 127
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930083
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930084
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930085
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930086
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930087
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930088
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930089

Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930090
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930091
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930092
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930093
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930094
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930095
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D1
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930096
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D2
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930097
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D3
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930098
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930099
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D5
Marine Corps Recruit Depot

San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930100
Status: Unutilized
Reason: Extensive deterioration
Bldg. 432
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930106
Status: Unutilized
Reason: Extensive deterioration
Bldg. 433
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930107
Status: Unutilized
Reason: Extensive deterioration
Bldg. 435
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930108
Status: Unutilized
Reason: Extensive deterioration
Bldg. 456
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930109
Status: Unutilized
Reason: Extensive deterioration
Bldg. 921
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930110
Status: Unutilized
Reason: Extensive deterioration
Bldg. 201
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940002
Status: Unutilized
Reason: Extensive deterioration
Bldg. 205
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940003
Status: Unutilized
Reason: Extensive deterioration
Bldg. 227
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940004
Status: Unutilized
Reason: Extensive deterioration
Bldg. 230
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940005
Status: Unutilized
Reason: Extensive deterioration
Bldg. 232
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940006
Status: Unutilized

Reason: Extensive deterioration
Bldg. 337
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940007
Status: Unutilized
Reason: Extensive deterioration
Bldg. 338
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940008
Status: Unutilized
Reason: Extensive deterioration
Bldg. 339
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940009
Status: Unutilized
Reason: Extensive deterioration
Bldg. 349
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940010
Status: Unutilized
Reason: Extensive deterioration
Bldg. 362
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940011
Status: Unutilized
Reason: Extensive deterioration
Bldg. 363
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940012
Status: Unutilized
Reason: Extensive deterioration
Bldg. 410
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940013
Status: Unutilized
Reason: Extensive deterioration
Bldg. 438
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940014
Status: Unutilized
Reason: Extensive deterioration
Bldg. 17A
Marine Corps Logistics Base
Barstow Co: San Bernardino CA 92311-
Landholding Agency: Navy
Property Number: 77200020001
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 3314
Marine Corps Air Station
Miramar Co: CA 92145-
Landholding Agency: Navy
Property Number: 77200020035
Status: Excess
Reason: Extensive deterioration
Bldgs. 5157, 5158
Construction Battalion Center

Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200020045
Status: Unutilized
Reason: Secured Area
Facility 13181
Camp Pendleton
Camp Pendleton Co: CA 92055-
Landholding Agency: Navy
Property Number: 77200020046
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Facility 14220
Camp Pendleton
Camp Pendleton Co: CA 92055-
Landholding Agency: Navy
Property Number: 77200020047
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 23025
Marine Corps Air Station
Miramar Co: CA 92132-
Landholding Agency: Navy
Property Number: 77200030001
Status: Unutilized
Reason: Secured Area
Bldg. 23027
Marine Corps Air Station
Miramar Co: CA 92132-
Landholding Agency: Navy
Property Number: 77200030002
Status: Unutilized
Reason: Secured Area
Bldg. 731
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030003
Status: Excess
Reason: Extensive deterioration
Bldg. 731A
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030004
Status: Excess
Reason: Extensive deterioration
Bldg. 865
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030005
Status: Excess
Reason: Extensive deterioration
Bldg. 868
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030006
Status: Excess
Reason: Extensive deterioration
Bldg. 474
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030007
Status: Excess

Reason: Extensive deterioration
Bldg. 5021
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030008
Status: Excess
Reason: Extensive deterioration
Bldg. 5022
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030009
Status: Excess
Reason: Extensive deterioration
Bldg. 5025
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030010
Status: Excess
Reason: Extensive deterioration
Bldg. 5113
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-
Landholding Agency: Navy
Property Number: 77200030011
Status: Excess
Reason: Extensive deterioration
Bldg. 5114
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030012
Status: Excess
Reason: Extensive deterioration
Bldgs. 82 & 84
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030013
Status: Excess
Reason: Extensive deterioration
Bldg. 6-1
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030014
Status: Excess
Reason: Extensive deterioration
Bldg. 479
Naval Construction Battalion Ctr.
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030015
Status: Excess
Reason: Extensive deterioration
Bldg. 1362
Marine Corps Base
Camp Pendleton Co: CA 92055-
Landholding Agency: Navy
Property Number: 77200030030
Status: Excess
Reason: Extensive deterioration
Bldg. 801
Naval Air Station

Point Mugu
Oxnard Co: Ventura CA 93042-5001
Landholding Agency: Navy
Property Number: 77200030043
Status: Unutilized
Reason: Extensive deterioration
Bldg. 41
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030044
Status: Unutilized
Reason: Extensive deterioration
Bldg. 103
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030045
Status: Unutilized
Reason: Extensive deterioration
Bldg. 259
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030046
Status: Unutilized
Reason: Extensive deterioration
Bldg. 260
Naval Const. Battalion Ctr
Port Hueneme Co: CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030047
Status: Unutilized
Reason: Extensive deterioration
Bldg. 274
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030048
Status: Unutilized
Reason: Extensive deterioration
Bldg. 462
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030049
Status: Unutilized
Reason: Extensive deterioration
Bldg. 488
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030050
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1150
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030051
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1156
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030052
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1275
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030053
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1321
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030054
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21091
Marine Corps Air Station
Miramar Co: San Diego CA 92132-
Landholding Agency: Navy
Property Number: 77200030058
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21127
Marine Corps Air Station
Miramar Co: San Diego CA 92132-
Landholding Agency: Navy
Property Number: 77200030059
Status: Unutilized
Reason: Extensive deterioration
Bldg. 9919
Marine Corps Air Station
Miramar Co: San Diego CA 92132-
Landholding Agency: Navy
Property Number: 77200030060
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1468
Naval Base Ventura on Parcel 1
Port Hueneme Co: Ventura CA 93042-5000
Landholding Agency: Navy
Property Number: 77200110013
Status: Unutilized
Reason: Secured Area
Bldg. 1469
Naval Base Ventura on Parcel 1
Port Hueneme Co: Ventura CA 93042-5000
Landholding Agency: Navy
Property Number: 77200110014
Status: Unutilized
Reason: Secured Area
Bldg. 12041
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110065
Status: Excess
Reason: Extensive deterioration
Bldg. 12052
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110066
Status: Excess
Reason: Extensive deterioration
Bldg. 16066
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110067
Status: Excess
Reason: Extensive deterioration
Bldg. 16074
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110068
Status: Excess
Reason: Extensive deterioration
Bldg. 16085
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110069
Status: Excess
Reason: Extensive deterioration
Bldg. 16086
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110070
Status: Excess
Reason: Extensive deterioration
Bldg. 16100
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110071
Status: Excess
Reason: Extensive deterioration
Bldg. 16115
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110072
Status: Excess
Reason: Extensive deterioration
Bldg. 16117
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110073
Status: Excess
Reason: Extensive deterioration
Bldg. 467
Marine Corps Recruit Depot
San Diego Co: CA 92132-
Landholding Agency: Navy
Property Number: 77200110100
Status: Unutilized
Reason: Secured Area
Bldg. 121 SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120001
Status: Excess
Reason: Extensive deterioration
Bldg. 121A SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120002
Status: Excess
Reason: Extensive deterioration
Bldg. 121B SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120003
Status: Excess
Reason: Extensive deterioration
Bldg. 137 SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120004
Status: Excess
Reason: Extensive deterioration
Bldg. 223 SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120005
Status: Excess

Reason: Extensive deterioration
 Bldg. 01289
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120089
 Status: Excess
 Reason: Extensive deterioration
 Bldg. PM1529
 Point Mugu, Naval Base
 Oxnard Co: Ventura CA 93042-5001
 Landholding Agency: Navy
 Property Number: 77200120094
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. PM1606
 Point Mugu, Naval Base
 Oxnard Co: Ventura CA 93042-5001
 Landholding Agency: Navy
 Property Number: 77200120095
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 70140
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120107
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 70141
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120108
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 70143
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120109
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 25062
 Naval Air Weapons Station
 China Lake Co: CA 93555-6001
 Landholding Agency: Navy
 Property Number: 77200120114
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 33023
 Naval Air Weapons Station
 China Lake Co: CA 93555-6001
 Landholding Agency: Navy
 Property Number: 77200120115
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 33054
 Naval Air Weapons Station
 China Lake Co: CA 93555-6001
 Landholding Agency: Navy
 Property Number: 77200120116
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 36
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130001
 Status: Unutilized
 Reason: Extensive deterioration
 Bldgs. 60, 61, 64, 65
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-

Landholding Agency: Navy
 Property Number: 77200130002
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 171
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130003
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 278
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130004
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 351
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130005
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 130
 Naval Station
 San Diego Co: CA 92132-
 Landholding Agency: Navy
 Property Number: 77200130006
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 415
 Naval Station
 San Diego Co: CA 92132-
 Landholding Agency: Navy
 Property Number: 77200130007
 Status: Excess
 Reason: Extensive deterioration
 Structure 20104
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130008
 Status: Excess
 Reason: Extensive deterioration
 Structure 31424
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130009
 Status: Excess
 Reason: Extensive deterioration
 Structure 31592
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130010
 Status: Excess
 Reason: Extensive deterioration
 Facility 26
 Naval Weapons Station
 Seal Beach Co: CA 90740-5000
 Landholding Agency: Navy
 Property Number: 77200130011
 Status: Unutilized
 Reason: Secured Area
 Bldg. 114
 Naval Air Facility
 El Centro Co: Imperial CA 92243-
 Landholding Agency: Navy
 Property Number: 77200130016
 Status: Unutilized
 Reason: Extensive deterioration

Bldg. 375
 Naval Air Facility
 El Centro Co: Imperial CA 92243-
 Landholding Agency: Navy
 Property Number: 77200130017
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 376
 Naval Air Facility
 El Centro Co: Imperial CA 92243-
 Landholding Agency: Navy
 Property Number: 77200130018
 Status: Unutilized
 Reason: Extensive deterioration
 Bldgs. 11070, 11080
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130025
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 471
 Marine Corps Recruit Depot
 San Diego Co: CA 92132-
 Landholding Agency: Navy
 Property Number: 77200130103
 Status: Unutilized
 Reason: Secured Area
 Bldg. PM7002
 Point Mugu Site Naval Base
 Oxnard Co: Ventura CA 93042-5000
 Landholding Agency: Navy
 Property Number: 77200140001
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 1244
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140002
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1331
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140003
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1364
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140004
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1674
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140005
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1229
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140006
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1242
 Marine Corps Base
 Camp Pendleton Co: CA 92055-

Landholding Agency: Navy
 Property Number: 77200140007
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1243
 Marine Corps Base
 Camp Pendleton Co: CA 92055–
 Landholding Agency: Navy
 Property Number: 77200140008
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1253
 Marine Corps Base
 Camp Pendleton Co: CA 92055–
 Landholding Agency: Navy
 Property Number: 77200140009
 Status: Excess
 Reason: Extensive deterioration
 Bldg. PM388
 Naval Air Station, Point Mugu
 Oxnard Co: Ventura CA 93042–5000
 Landholding Agency: Navy
 Property Number: 77200140010
 Status: Unutilized
 Reason: Extensive deterioration
 Colorado
 Bldg. 34
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199540001
 Status: Underutilized
 Reasons: Contamination, Secured Area
 Bldg. 35
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199540002
 Status: Underutilized
 Reasons: Contamination, Secured Area
 Bldg. 36
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199540003
 Status: Underutilized
 Reasons: Contamination, Secured Area
 Bldg. 2
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610039
 Status: Unutilized
 Reasons: Contamination, Secured Area
 Bldg. 7
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610040
 Status: Unutilized
 Reasons: Contamination, Secured Area
 Bldg. 31–A
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610041
 Status: Unutilized
 Reasons: Contamination, Secured Area
 Bldg. 33
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610042
 Status: Unutilized

Reasons: Contamination, Secured Area
 Bldg. 727
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910001
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 729
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910002
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 779
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910003
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 780
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910004
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 780A
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910005
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 780B
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910006
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 782
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910007
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 783
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910008
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 784(A–D)
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910009
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 785

Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910010
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 786
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910011
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 787(A–D)
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910012
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 875
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910013
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 880
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910014
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 886
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910015
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 308A
 Rocky Flats Env. Tech. Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910016
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 788
 Rocky Flats Env. Tech. site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910017
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 888
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930001
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 714 A/B
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–

Landholding Agency: Energy
 Property Number: 41199930021
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 717
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930022
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 770
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930023
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 771
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930024
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 771B
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930025
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 771C
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930026
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 772–772A
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930027
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 773
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930028
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 774
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930029
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 776
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010001

Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 777
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010002
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 778
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010003
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 712–712A
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010004
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 713–713A
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010005
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 771 TUN
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010006
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 776A–781
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010007
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldgs. 111, 111B
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200030001
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 125
 Rocky Flats Env. Tech. Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120001
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 333
 Rocky Flats Env. Tech. Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120002
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 762
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120003
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 762A
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120004
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 792
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120005
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 792A
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120006
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Connecticut
 Bldgs. 25 and 26
 Prospect Hill Road
 Windsor Co: Hartford CT 06095–
 Landholding Agency: Energy
 Property Number: 41199440003
 Status: Excess
 Reason: Secured Area
 9 Bldgs.
 Knolls Atomic Power Lab, Windsor Site
 Windsor Co: Hartford CT 06095–
 Landholding Agency: Energy
 Property Number: 41199540004
 Status: Excess
 Reason: Secured Area
 Bldg. 8, Windsor Site
 Knolls Atomic Power Lab
 Windsor Co: Hartford CT 06095–
 Landholding Agency: Energy
 Property Number: 41199830006
 Status: Unutilized
 Reason: Extensive deterioration
 District Of Columbia
 Bldg. A–092
 Naval Station Anacostia
 Washington Co: DC 20374–
 Landholding Agency: Navy
 Property Number: 77200110046
 Status: Underutilized
 Reason: Secured Area
 Bldg. A–150
 Naval District
 Anacostia Annex
 Washington Co: DC 20374–
 Landholding Agency: Navy
 Property Number: 77200140016
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. A–057
 Naval District
 Anacostia Annex

Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140017
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–087/002
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140018
Status: Unutilized
Reason: Extensive deterioration
Florida
Cape St. George Lighthouse
St. George Island Co: Franklin FL 32328–
Landholding Agency: GSA
Property Number: 54199940012
Status: Excess
Reasons: Floodway, Extensive deterioration
GSA Number : 4–U–FL–1167
Boca Grande Range
Rear Light
Gasparilla Island Co: Lee FL 33921–
Landholding Agency: GSA
Property Number: 54199940013
Status: Excess
Reason: Floodway
GSA Number : 4–U–FL–1169
Sanibel Island Light
Sanibel Co: Lee FL 33957–
Landholding Agency: GSA
Property Number: 54199940014
Status: Excess
Reason: Floodway
GSA Number : 4–U–FL–1162
U.S. Courthouse 311 West Monroe Street
Jacksonville Co: Duval FL 32209–
Landholding Agency: GSA
Property Number: 54200140010
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 4–G–FL–1178
U.S. Customs House 1700 Spangler
Boulevard
Hollywood Co: Broward FL 33316–
Landholding Agency: GSA
Property Number: 54200140012
Status: Surplus
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
GSA Number : 4–G–FL–1173
Bldg. 1558
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 7L
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010004
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 7H
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020064
Status: Unutilized

Reasons: Secured Area
Extensive deterioration
Bldg. 7J
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020065
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 7K
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020066
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 135
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020068
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 211
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200020077
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 62
NAS Jacksonville
Altoona Co: Marion FL 32702–
Landholding Agency: Navy
Property Number: 77200020111
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 94
NAS Jacksonville
Altoona Co: Marion FL 32702–
Landholding Agency: Navy
Property Number: 77200020112
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 114
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040006
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
Bldg. 133
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040007
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
Bldg. 141
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040008

Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
16 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 142, 151, 153, 156, 164, 170, 171,
176, 178, 180, 182–187
Landholding Agency: Navy
Property Number: 77200040009
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
11 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 103, 105, 112, 113, 115–119, 121,
122
Landholding Agency: Navy
Property Number: 77200040010
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
23 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 143–150, 152, 154, 155, 157, 158,
160–163, 165, 166, 168, 169, 179, 181
Landholding Agency: Navy
Property Number: 77200040011
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 173, 174, 175, 177, 188
Landholding Agency: Navy
Property Number: 77200040012
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
6 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 130–132, 134–136
Landholding Agency: Navy
Property Number: 77200040013
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
Bldgs. 159, 167, 172
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040014
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 124, 127, 138–140
Landholding Agency: Navy
Property Number: 77200040015
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area

5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 107, 109, 111, 120, 123
Landholding Agency: Navy
Property Number: 77200040016
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area

5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 102, 104, 106, 108, 110
Landholding Agency: Navy
Property Number: 77200040017
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area

Bldg. 172
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200130012
Status: Unutilized
Reason: Extensive deterioration

Bldg. 146
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130070
Status: Underutilized
Reason: Secured Area

Bldg. 679
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130071
Status: Underutilized
Reason: Secured Area

Bldg. 680
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130072
Status: Unutilized
Reason: Secured Area

Bldg. 743
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130073
Status: Unutilized
Reason: Secured Area

Bldg. 782
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130074
Status: Underutilized
Reason: Secured Area

Bldg. 782A
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130075
Status: Unutilized
Reason: Secured Area

Bldg. 1082
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130076

Status: Underutilized
Reason: Secured Area
Bldg. 1536
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130077
Status: Unutilized
Reason: Secured Area

Bldg. 1567
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130078
Status: Unutilized
Reason: Secured Area

Bldg. 1735
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130079
Status: Underutilized
Reason: Secured Area

Bldg. 1813
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130080
Status: Unutilized
Reason: Secured Area

Bldg. 2666
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130081
Status: Unutilized
Reason: Secured Area

Bldg. 3278
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130082
Status: Unutilized
Reason: Secured Area

Bldg. 3378
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130083
Status: Unutilized
Reason: Secured Area

Bldg. 3589
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130084
Status: Underutilized
Reason: Secured Area

Hawaii
Bldg. 126, Naval Magazine
Waikale Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Extensive
Deterioration, Secured Area

Bldg. Q75, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230013

Status: Unutilized
Reasons: Extensive Deterioration, Secured
Area

Bldg. 7, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230014
Status: Unutilized
Reasons: Extensive Deterioration, Secured
Area

Bldg. 9
Navy Public Works Center
Kolekole Road
Lualualei Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530009
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. X5
Nanumea Road
Pearl Harbor Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530010
Status: Excess
Reason: Secured Area

Bldg. SX30
Nanumea Road
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199530011
Status: Excess
Reason: Secured Area

Bldg. 98
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199620032
Status: Excess
Reason: Extensive deterioration

Bldg. Q13
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640035
Status: Unutilized
Reason: Extensive deterioration

Bldg. Q14
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640036
Status: Unutilized
Reason: Extensive deterioration

Bldg. 40
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830028
Status: Unutilized
Reason: Extensive deterioration

Bldg. 50
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830029
Status: Unutilized
Reason: Extensive deterioration

Bldg. Q76
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830030

Status: Unutilized
Reason: Extensive deterioration
Bldg. Q334
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830031
Status: Unutilized

Reason: Extensive deterioration
Bldg. Q410
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830034
Status: Unutilized

Reason: Extensive deterioration
Bldg. Q422
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830035
Status: Unutilized

Reason: Extensive deterioration
Bldg. 429
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830036
Status: Unutilized

Reason: Extensive deterioration
Bldg. 431
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830037
Status: Unutilized

Reason: Extensive deterioration
Bldg. 447
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830038
Status: Unutilized

Reason: Extensive deterioration
Facility S-721
Naval Station
Pearl Harbor Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 77199840042
Status: Excess

Reason: Secured Area

Facility 19
Naval Station
Pearl Harbor Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 77199840045
Status: Excess
Reason: Secured Area

Facility SX30
Navy Public Works Center
Pearl Harbor Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 77199920027
Status: Excess
Reasons: Secured Area Extensive deterioration

Idaho

Bldg. PBF-621
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610001
Status: Unutilized

Reason: Secured Area

Bldg. CPP-691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reason: Secured Area

Bldg. CPP-625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610004
Status: Unutilized
Reason: Secured Area

Bldg. CPP-650
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610005
Status: Unutilized
Reason: Secured Area

Bldg. CPP-608
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610006
Status: Unutilized
Reason: Secured Area

Bldg. TAN-660
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610007
Status: Unutilized
Reason: Secured Area

Bldg. TAN-636
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610008
Status: Unutilized
Reason: Secured Area

Bldg. TAN-609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610009
Status: Unutilized
Reason: Secured Area

Bldg. TAN-670
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610010
Status: Unutilized
Reason: Secured Area

Bldg. TAN-661
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610011
Status: Unutilized
Reason: Secured Area

Bldg. TAN-657
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610012
Status: Unutilized
Reason: Secured Area

Bldg. TRA-669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-

Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reason: Secured Area

Bldg. TAN-637
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610014
Status: Unutilized
Reason: Secured Area

Bldg. TAN-635
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610015
Status: Unutilized
Reason: Secured Area

Bldg. TAN-638
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610016
Status: Unutilized
Reason: Secured Area

Bldg. TAN-651
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610017
Status: Unutilized
Reason: Secured Area

Bldg. TRA-673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF-620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF-616
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610020
Status: Unutilized
Reason: Secured Area

Bldg. PBF-617
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610021
Status: Unutilized
Reason: Secured Area

Bldg. PBF-619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF-624
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610023
Status: Unutilized
Reason: Secured Area

Bldg. PBF-625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF-629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized
Reason: Secured Area

Bldg. PBF-604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. TRA-641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF-606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

TAN 602, 631, 663, 702, 724
Idaho Natl Engineering & Environmental Lab
Test Area North
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199830002
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

8 Bldgs.
Idaho Natl Engineering & Environmental Lab
Test Reactor North
Scoville Co: Butte ID 83415-
Location: TRA 643, 644, 655, 660, 704-706,
755
Landholding Agency: Energy
Property Number: 41199830003
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Illinois
Navy Family Housing
18-units
Hanna City Co: Peoria IL 61536-
Landholding Agency: GSA
Property Number: 54199940018
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
GSA Number : 1-N-IL-723

Bldg. 415
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840023
Status: Unutilized
Reason: Secured Area

Bldg. 1015
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840024
Status: Unutilized
Reason: Secured Area

Bldg. 1016
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840025
Status: Unutilized
Reason: Secured Area

Bldg. 910
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920055
Status: Unutilized
Reason: Secured Area

Bldg. 800
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920056
Status: Unutilized
Reason: Secured Area

Bldg. 1000
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920057
Status: Unutilized
Reason: Secured Area

Bldg. 1200
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920058
Status: Unutilized
Reason: Secured Area

Bldg. 1400
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920059
Status: Unutilized
Reason: Secured Area

Bldg. 1600
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920060
Status: Unutilized
Reason: Secured Area

Bldg. 2600
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920061
Status: Unutilized
Reason: Secured Area

Kansas
Sunflower AAP
DeSoto Co: Johnson KS 66018-
Landholding Agency: GSA
Property Number: 54199830010
Status: Excess
Reason: Extensive deterioration
GSA Number: 7-D-KS-0581

Louisiana
Weeks Island Facility
New Iberia Co: Iberia Parish LA 70560-
Landholding Agency: Energy
Property Number: 41199610038
Status: Underutilized
Reason: Secured Area

Maryland
15 Bldgs.
Naval Air Warfare Center
Patuxent River Co: St. Mary's MD 20670-
5304
Landholding Agency: Navy
Property Number: 77199730062
Status: Unutilized
Reason: Extensive deterioration

Bldg. 867
Naval Air Station
Patuxent River Co: MD 20670-
Landholding Agency: Navy
Property Number: 77200120010
Status: Excess
Reason: Extensive deterioration

Bldg. 868
Naval Air Station
Patuxent River Co: MD 20670-
Landholding Agency: Navy
Property Number: 77200120011
Status: Excess
Reason: Extensive deterioration

Bldg. 1044
Naval Air Station
Patuxent River Co: MD 20670-
Landholding Agency: Navy
Property Number: 77200120012
Status: Excess
Reason: Extensive deterioration

Bldg. S-038
Naval District
Solomons Complex
Solomons Co: MD 20688-0147
Landholding Agency: Navy
Property Number: 77200140013
Status: Unutilized
Reason: Extensive deterioration

Bldg. S-046
Naval District
Solomons Complex
Solomons Co: MD 20688-0147
Landholding Agency: Navy
Property Number: 77200140014
Status: Unutilized
Reason: Extensive deterioration

Bldg. F-1676
Naval Air Facility
Andrews AFB Co: MD 20762-5518
Landholding Agency: Navy
Property Number: 77200140015
Status: Unutilized
Reason: Extensive deterioration

Michigan
Navy Housing
64 Barberr Drive
Springfield Co: Calhoun MI 49015-
Landholding Agency: GSA
Property Number: 54200020013
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
GSA Number: 1-N-MI-795
Stroh Army Reserve Center
17825 Sherwood Ave.
Detroit Co: Wayne MI 00000-

Landholding Agency: GSA
 Property Number: 54200040001
 Status: Surplus
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-D-MI-798
 Minnesota
 Naval Ind. Rsv Ordnance Plant
 Minneapolis Co: MN 55421-1498
 Landholding Agency: GSA
 Property Number: 54199930004
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number : 1-N-MN-570
 Nike Battery Site, MS-40
 Castle Rock Township
 Farmington Co: Dakota MN 00000-
 Landholding Agency: GSA
 Property Number: 54200020004
 Status: Surplus
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-I-MN-451-B
 Mississippi
 Bldg. 12
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130029
 Status: Unutilized
 Reason: Secured Area
 Bldg. 23
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130030
 Status: Unutilized
 Reason: Secured Area
 Bldg. 36
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130031
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 141
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130032
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 172
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130033
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 185
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130034
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 220
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy

Property Number: 77200130035
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 236
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130036
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Structure 427
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130037
 Status: Unutilized
 Reason: Secured Area
 Nebraska
 Sound Signal Station
 Manana Island
 Manana Island Co: Lincoln NE
 Landholding Agency: GSA
 Property Number: 54200210008
 Status: Excess
 Reason: Inaccessible
 GSA Number : 1-U-ME-646B
 Nevada
 6 Bldgs.
 Dale Street Complex, 300, 400, 500, 600,
 Block Bldg, Valve House
 Boulder City Co: NV 89005-
 Landholding Agency: GSA
 Property Number: 54200020017
 Status: Excess
 Reason: Extensive deterioration
 GSA Number: LC-00-01-RP
 New Jersey
 Holmdel Housing Site
 Telegraph Hill Road
 Holmdel Co: Monmouth NJ 07733-
 Location: redetermination based on additional information from landholding agency
 Landholding Agency: GSA
 Property Number: 54200040005
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number : 1-N-NJ-622
 30 Bldgs.
 Camp Charles Wood
 Ft. Monmouth Co: Eatontown NJ
 Landholding Agency: GSA
 Property Number: 54200120008
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-D-NJ-470f
 Nike Battery Site 41/43
 Lot 17 Williamstown Chews Landing Road
 Gloucester Co: Camden NJ
 Location: Village of Sicklerville
 Landholding Agency: GSA
 Property Number: 54200130002
 Status: Excess
 Reason: Extensive deterioration
 GSA Number : 1-GR-NJ-0537
 Bldg. 188
 Naval Air Engineering Station
 Lakehurst Co: Ocean NJ 08733-5000
 Landholding Agency: Navy
 Property Number: 77199830065
 Status: Unutilized

Reason: Extensive deterioration
 Bldg. 473
 Naval Air Engineering Station
 Lakehurst Co: Ocean NJ 08733-5000
 Landholding Agency: Navy
 Property Number: 77199920024
 Status: Unutilized
 Reason: Extensive deterioration
 New Mexico
 Bldgs. 9252, 9268
 Kirtland Air Force Base
 Albuquerque Co: Bernalillo NM 87185-
 Landholding Agency: Energy
 Property Number: 41199430002
 Status: Unutilized
 Reason: Extensive deterioration
 Tech Area II
 Kirtland Air Force Base
 Albuquerque Co: Bernalillo NM 87105-
 Landholding Agency: Energy
 Property Number: 41199630004
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 1, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810001
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 2, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810002
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 24, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810003
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 26, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810004
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 86, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810005
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 88, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810006
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration

Reason: Secured Area
Bldg. 88, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199930006
Status: Unutilized
Reason: Secured Area
Bldg. 89, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199930007
Status: Unutilized
Reason: Secured Area
Bldg. 21, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940001
Status: Unutilized
Reason: Secured Area
Bldg. 57, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940002
Status: Unutilized
Reason: Secured Area
Bldg. 28, TA-8
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940003
Status: Unutilized
Reason: Secured Area
Bldg. 38, TA-14
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 8, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940005
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 9, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reason: Secured Area
Bldg. 22, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940007
Status: Unutilized
Reason: Secured Area
Bldg. 141, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reason: Secured Area
Bldg. 44, TA-15

Landholding Agency: Energy
 Property Number: 41200010029
 Status: Unutilized
 Reason: Secured Area
 Bldg. 2, TA-8
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200010030
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 3, TA-8
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020001
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 51, TA-9
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020002
 Status: Unutilized
 Reason: Secured Area
 Bldg. 30, TA-14
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020003
 Status: Unutilized
 Reason: Secured Area
 Bldg. 16, TA-3
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020009
 Status: Unutilized
 Reason: Secured Area
 Bldg. 339, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020010
 Status: Unutilized
 Reason: Secured Area
 Bldg. 340, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020011
 Status: Unutilized
 Reason: Secured Area
 Bldg. 341, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020012
 Status: Unutilized
 Reason: Secured Area
 Bldg. 342, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020013
 Status: Unutilized
 Reason: Secured Area
 Bldg. 343, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020014

Status: Unutilized
 Reason: Secured Area
 Bldg. 345, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020015
 Status: Unutilized
 Reason: Secured Area
 Bldg. 16, TA-21
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020016
 Status: Unutilized
 Reason: Secured Area
 Bldg. 48, TA-55
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020017
 Status: Unutilized
 Reason: Secured Area
 Bldg. 125, TA-55
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020018
 Status: Unutilized
 Reason: Secured Area
 Bldg. 162, TA-55
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020019
 Status: Unutilized
 Reason: Secured Area
 Bldg. 22, TA-33
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020022
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 23, TA-49
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020023
 Status: Unutilized
 Reason: Secured Area
 Bldg. 37, TA-53
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020024
 Status: Unutilized
 Reason: Secured Area
 Bldg. 121, TA-49
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020025
 Status: Unutilized
 Reason: Secured Area
 Bldg. 30, TA-21
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200040001
 Status: Unutilized
 Reason: Secured Area
 Bldg. 152 TA-21

Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200040002
 Status: Unutilized
 Reason: Secured Area
 Bldg. 105, TA-3
 Los Alamos Natl Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200120007
 Status: Excess
 Reason: Secured Area
 Bldg. 452, TA-3
 Los Alamos Natl Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200120008
 Status: Excess
 Reason: Secured Area
 Bldg. N149
 Naval Air Warfare
 White Sands Co: NM 88002-
 Landholding Agency: Navy
 Property Number: 77200110104
 Status: Excess
 Reason: Extensive deterioration
 New York
 Bldg. 577
 Brookhaven National Lab
 Upton Co: Suffolk NY 11973-
 Landholding Agency: Energy
 Property Number: 41199940022
 Status: Excess
 Reason: Extensive deterioration
 Bldg. AT-1
 Knolls Atomic Power Lab
 Niskayuna Co: Schenectady NY 12301-
 Landholding Agency: Energy
 Property Number: 41200010022
 Status: Excess
 Reason: Secured Area
 Bldg. AT-1
 Knolls Atomic Power Lab
 Niskayuna Co: Schenectady NY 12301-
 Landholding Agency: Energy
 Property Number: 41200020020
 Status: Unutilized
 Reason: Secured Area
 North Carolina
 Bldg. M-319
 Marine Corps Base
 Camp Lejeune Co: Onslow NC 28542-
 Landholding Agency: Navy
 Property Number: 77200120127
 Status: Unutilized
 Reason: Secured Area
 Bldg. AS-4040
 Marine Corps Air Station
 New River Co: NC
 Landholding Agency: Navy
 Property Number: 77200210039
 Status: Underutilized
 Reason: Secured Area
 Ohio
 Bldg. 77
 Fernald Environmental Management Project
 Fernald Co: Hamilton OH 45013-
 Landholding Agency: Energy
 Property Number: 41199840003
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 82A
Fernald Environmental Mgmt Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 16
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930016
Status: Unutilized
Reason: Secured Area

Bldg. 22B
Fernald Env. Mgmt. Proj.
Hamilton Co: OH 45013–9402
Landholding Agency: Energy
Property Number: 41200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 53A
Fernald Env. Mgmt. Project
Fernald Co: Hamilton OH 45013–9402
Landholding Agency: Energy
Property Number: 41200120009
Status: Excess
Reason: Secured Area

Bldg. 8G
Fernald Environmental Mgmt Project
Hamilton Co: OH 45013–
Landholding Agency: Energy
Property Number: 41200210003
Status: Excess
Reason: Secured Area

Bldg. 8H
Fernald Environmental Mgmt Project
Hamilton Co: OH 45013–
Landholding Agency: Energy
Property Number: 41200210004
Status: Excess
Reason: Secured Area

Bldg. 94A
Fernald Environmental Mgmt Project
Hamilton Co: OH 45013–
Landholding Agency: Energy
Property Number: 41200210005
Status: Excess
Reason: Secured Area

Pennsylvania
Z-Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reason: Extensive deterioration

Puerto Rico
B–38
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830075
Status: Unutilized
Reason: Extensive deterioration

Rhode Island
Bldg. 52
Gould Island, Naval Station
Newport Co: RI 00000–
Landholding Agency: Navy
Property Number: 77199930020

Status: Excess
Reasons: Not accessible by road, Extensive
deterioration

South Carolina
Bldg. 49
Naval Public Works Center
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020062
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 7
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040030
Status: Unutilized
Reason: Secured Area

Bldg. 314
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040031
Status: Unutilized
Reason: Secured Area

South Dakota
Residence
308 8th Ave South
Clearlake Co: Deuel SD 57226–
Landholding Agency: GSA
Property Number: 54200140004
Status: Surplus
Reason: Extensive deterioration
GSA Number: 7–J–SD–0552

Tennessee
Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199720001
Status: Excess
Reason: Extensive deterioration

Bldgs. 9714–3, 9714–4, 9983–AY
Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reason: Secured Area

5 Bldgs.
K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9825
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810027
Status: Unutilized
Reason: Secured Area

Bldg. 3026
Oak Ridge Natl Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199830001
Status: Excess
Reasons: Secured Area, Extensive
deterioration

Bldg. 3505
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199940020
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

9 Bldgs.
E. Tennessee Tech Park
Oak Ridge Co: Roane TN 37831–
Location: K–1001, K–1301, K–1302, K–1303,
K–1404, K–1405–6, K–1407, K–1408A, K–
1413
Landholding Agency: Energy
Property Number: 41200010023
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9723–16
National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200120010
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

5 Bldgs.
Oak Ridge National Lab
#7811, 7819, 7833, 7852, 7860
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41200130001
Status: Unutilized
Reasons: contamination, Secured Area,
Extensive deterioration

Bldg. 81–22
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140001
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9409–26
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140002
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9723–4
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140003
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9733-4
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200140004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
4 Bldgs.
Y-12 National Security Complex #9929-1,
9823, 9827 & shed
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200140005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 9949-1
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200140006
Status: Unutilized
Reason: Secured Area
Bldg. 9723-18
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200210006
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Bldg. 9728
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200210007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
22 Bldgs.
Volunteer Army Ammunition Plant
Warehouses (Southern Portion)
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930016
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material, GSA Number: 4-D-TN-594F
17 Bldgs.
Volunteer Army Ammunition Plant
Acid Production
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930017
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material contamination
GSA Number: 4-D-TN-594F
41 Facilities
Volunteer Army Ammunition Plant
TNT Production
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930018
Status: Surplus
Reason: contamination
GSA Number: 4-D-TN-594F
5 Facilities
Volunteer Army Ammunition Plant
Waste Water Treatment
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA

Property Number: 54199930019
Status: Surplus
Reason: Extensive deterioration
GSA Number: 4-D-TN-594F
6 Bldgs.
Volunteer Army Ammunition Plant
Offices (Southern Portion)
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930023
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4-D-TN-594F
Army Reserve Center #2
360 Ornamental Metal Museum Dr.
Memphis Co: Shelby TN 38106-
Landholding Agency: GSA
Property Number: 54200120004
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
GSA Number: 4-D-TN-0650
20 Bldgs.
Naval Support Activity
Millington Co: Shelby TN 38054-
Location: 766, 1597-1598, 5238, 435-446, S239, S75, 1211, 1379
Landholding Agency: Navy
Property Number: 77199940027
Status: Excess
Reasons: Secured Area, Extensive deterioration
6 Bldgs.
Naval Support Activity
#2003, 2016, 2024, 2025, 2076, 2077
Millington Co: TN 38054-
Landholding Agency: Navy
Property Number: 77200120013
Status: Excess
Reason: Secured Area
Bldg. R23-99
Naval Support Activity
Millington Co: TN 38054-
Landholding Agency: Navy
Property Number: 77200130104
Status: Excess
Reason: Secured Area
5 Bldgs.
Naval Support Activity
Millington Co: TN 38054-
Landholding Agency: Navy
Property Number: 77200130105
Status: Excess
Reason: Secured Area
Texas
Bldgs. 1561, 1562, 1563
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77199820050
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1190
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77199820053
Status: Unutilized
Reason: Secured Area
Bldg. 1820
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200

Landholding Agency: Navy
Property Number: 77199820054
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1504
Naval Air Station
Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200110018
Status: Unutilized
Reason: Extensive deterioration
Facility 119
Naval Air Station
Corpus Christi Co: Nueces TX 78419-5021
Landholding Agency: Navy
Property Number: 77200110047
Status: Excess
Reasons: Within airport runway clear zone, Secured Area, Extensive deterioration
Bldg. 1149
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120014
Status: Unutilized
Reason: Extensive deterioration
Bldg. 4200
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120015
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1173
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120016
Status: Unutilized
Reason: Extensive deterioration.
Bldg. 1268
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120017
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1837
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120018
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1346
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-
Landholding Agency: Navy
Property Number: 77200120156
Status: Excess
Reasons: Secured Area, Extensive deterioration
Facility 16
Naval Air Station
Corpus Christi Co: Nueces TX 78419-5021
Landholding Agency: Navy
Property Number: 77200130085
Status: Excess
Reason: Extensive deterioration
Facility 23
Naval Air Station
Corpus Christi Co: Nueces TX 78419-5021
Landholding Agency: Navy

Property Number: 77200130086	Naval Air Station	Property Number: 77199830084
Status: Excess	Corpus Christi Co: Nueces TX 78419-5021	Status: Unutilized
Reason: Extensive deterioration	Landholding Agency: Navy	Reasons: Secured Area, Extensive deterioration
Facility 32	Property Number: 77200130097	Bldg. 449
Naval Air Station	Status: Excess	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Reason: Extensive deterioration	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Facility 1233	Landholding Agency: Navy
Property Number: 77200130087	Naval Air Station	Property Number: 77199920068
Status: Excess	Corpus Christi Co: Nueces TX 78419-5021	Status: Excess
Reason: Extensive deterioration	Landholding Agency: Navy	Reason: Extensive deterioration
Facility 52A	Property Number: 77200130098	Bldg. 450
Naval Air Station	Status: Excess	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Reason: Extensive deterioration	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Facility 3589	Landholding Agency: Navy
Property Number: 77200130088	Naval Air Station	Property Number: 77199920069
Status: Excess	Corpus Christi Co: Nueces TX 78419-5021	Status: Excess
Reason: Extensive deterioration	Landholding Agency: Navy	Reason: Extensive deterioration
Facility 52B	Property Number: 77200130099	Bldg. 451
Naval Air Station	Status: Excess	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Reason: Extensive deterioration	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Bldg. 1298	Landholding Agency: Navy
Property Number: 77200130089	Naval Air Station	Property Number: 77199920070
Status: Excess	Corpus Christi Co: Nueces TX 78419-5021	Status: Excess
Reason: Extensive deterioration	Landholding Agency: Navy	Reason: Extensive deterioration
Facility 52C	Property Number: 77200130100	Bldg. 453
Naval Air Station	Status: Excess	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Reason: Extensive deterioration	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Virginia	Landholding Agency: Navy
Property Number: 77200130090	Bldg. O2	Property Number: 77199920071
Status: Excess	Naval Weapons Station	Status: Excess
Reason: Extensive deterioration	Yorktown Co: York VA 23691-	Reason: Extensive deterioration
Facility 52D	Landholding Agency: Navy	Bldg. 454
Naval Air Station	Property Number: 77199810073	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Status: Excess	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Reason: Extensive deterioration	Landholding Agency: Navy
Property Number: 77200130091	Bldgs. 358, 359	Property Number: 77199920072
Status: Excess	Cheatham Annex	Status: Excess
Reason: Extensive deterioration	Williamsburg VA 23185-	Reason: Extensive deterioration
Facility 52E	Landholding Agency: Navy	Bldg. 708
Naval Air Station	Property Number: 77199820023	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Status: Excess	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Reason: Extensive deterioration	Landholding Agency: Navy
Property Number: 77200130092	Bldg. CAD-43	Property Number: 77199920073
Status: Excess	Cheatham Annex	Status: Excess
Reason: Extensive deterioration	Williamsburg VA 23185-	Reason: Extensive deterioration
Facility 168	Landholding Agency: Navy	Bldg. 709
Naval Air Station	Property Number: 77199820024	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Status: Excess	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Reason: Extensive deterioration	Landholding Agency: Navy
Property Number: 77200130093	Bldg. CAD-102	Property Number: 77199920074
Status: Excess	Cheatham Annex	Status: Excess
Reason: Extensive deterioration	Williamsburg VA 23185-	Reason: Extensive deterioration
Facility 306	Landholding Agency: Navy	Bldg. 710
Naval Air Station	Property Number: 77199820025	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Status: Excess	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Reason: Extensive deterioration	Landholding Agency: Navy
Property Number: 77200130094	Bldg. CAD-102A	Property Number: 77199920075
Status: Excess	Cheatham Annex	Status: Excess
Reason: Extensive deterioration	Williamsburg VA 23185-	Reason: Extensive deterioration
Facility 330	Landholding Agency: Navy	Bldg. 711
Naval Air Station	Property Number: 77199820026	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Status: Excess	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Reason: Extensive deterioration	Landholding Agency: Navy
Property Number: 77200130095	Bldg. CAD-127	Property Number: 77199920076
Status: Excess	Cheatham Annex	Status: Excess
Reason: Extensive deterioration	Williamsburg VA 23185-	Reason: Extensive deterioration
Facility 372	Landholding Agency: Navy	Bldg. 712
Naval Air Station	Property Number: 77199820027	Norfolk Naval Shipyard
Corpus Christi Co: Nueces TX 78419-5021	Status: Excess	Portsmouth Co: VA 23709-
Landholding Agency: Navy	Reason: Extensive deterioration	Landholding Agency: Navy
Property Number: 77200130096	CAD-40	Property Number: 77199920077
Status: Excess	Cheatham Annex	Status: Excess
Reason: Extensive deterioration	Williamsburg VA 23185-	Reason: Extensive deterioration
Facility 383	Landholding Agency: Navy	

Bldg. 713
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920078
Status: Excess
Reason: Extensive deterioration

Bldg. 714
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920079
Status: Excess
Reason: Extensive deterioration

Bldg. 715
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920080
Status: Excess
Reason: Extensive deterioration

Bldg. 716
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920081
Status: Excess
Reason: Extensive deterioration

Bldg. 717
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920082
Status: Excess
Reason: Extensive deterioration

Bldg. 718
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920083
Status: Excess
Reason: Extensive deterioration

Bldg. 1454
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920084
Status: Excess
Reason: Extensive deterioration

Bldg. 7
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 12
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 24
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 34
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 108
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 299
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 400
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 436
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 442, 443
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 530
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 532
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 646–651
Naval Weapons Station

Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 758, 759
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 764
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 784
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 786
Naval Weapons Station Yorktown
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 788
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 790
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 814
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 1955–1957
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy

Property Number: 77200020028
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldgs. 1960, 1961, 1964
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldgs. 1980, 1981
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020030
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 160
Cheatham Annex
Williamsburg Co: VA 23185–5830
Landholding Agency: Navy
Property Number: 77200020031
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1453
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–5000
Landholding Agency: Navy
Property Number: 77200020063
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 13
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120024
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 14
Naval Weapons Station
Yorktown Co: VA 2369–
Landholding Agency: Navy
Property Number: 77200120025
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 22
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120026
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 23
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120027
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 70
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120028
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 87
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120029
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 88
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120030
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 118
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120031
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 385
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120032
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 396A
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120033
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 492
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120034
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 507
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120035
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 612
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy

Property Number: 77200120036
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1224
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120037
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1225
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120038
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1226
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120039
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1227
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120040
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1228
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120041
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1587
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120042
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1588
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120043
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1589
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120044
Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1590

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120045

Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1591

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120046

Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1612

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120047

Status: Excess

Reasons: Secured Area, Extensive deterioration

Structure 1743

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120048

Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 103B

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120049

Status: Excess

Reasons: Secured Area, Extensive deterioration

Bldg. B109

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120050

Status: Unutilized

Reason: Extensive deterioration

Bldg. B112

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120051

Status: Unutilized

Reason: Extensive deterioration

Bldg. 123

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120052

Status: Unutilized

Reason: Extensive deterioration

Bldg. B132

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120053

Status: Unutilized

Reason: Extensive deterioration

Bldg. B157

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120054

Status: Unutilized

Reason: Extensive deterioration

Bldg. 170A

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120055

Status: Unutilized

Reason: Extensive deterioration

Bldg. B239

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120056

Status: Unutilized

Reason: Extensive deterioration

Bldg. B362

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120057

Status: Unutilized

Reason: Extensive deterioration

Bldg. B396

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120058

Status: Unutilized

Reason: Extensive deterioration

Bldg. B402

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120059

Status: Unutilized

Reason: Extensive deterioration

Bldg. B425

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120060

Status: Unutilized

Reason: Extensive deterioration

Bldg. B428

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120061

Status: Unutilized

Reason: Extensive deterioration

Bldg. B451

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120062

Status: Unutilized

Reason: Extensive deterioration

Bldg. B465

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120063

Status: Unutilized

Reason: Extensive deterioration

Bldg. B1100

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy

Property Number: 77200120064

Status: Unutilized

Reason: Extensive deterioration

Bldg. B1124

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120065

Status: Unutilized

Reason: Extensive deterioration

Bldg. B9411

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120066

Status: Unutilized

Reason: Extensive deterioration

Bldg. B9429

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120067

Status: Unutilized

Reason: Extensive deterioration

Tracks

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120068

Status: Unutilized

Reason: Extensive deterioration

Bldg. B107

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–5100
Landholding Agency: Navy
Property Number: 77200130045

Status: Unutilized

Reason: Extensive deterioration

Bldg. B153

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130046

Status: Unutilized

Reason: Extensive deterioration

Bldg. B166

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130047

Status: Unutilized

Reason: Extensive deterioration

Bldg. B167

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130048

Status: Unutilized

Reason: Extensive deterioration

Bldg. B185T

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130049

Status: Unutilized

Reason: Extensive deterioration

Bldg. B196

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130050

Status: Unutilized

Reason: Extensive deterioration

Bldg. B244

Reason: Extensive deterioration
 Bldg. B9446
 Naval Surface Warfare Center
 Dahlgren Co: King George VA 22448–
 Landholding Agency: Navy
 Property Number: 77200130125
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. B9461
 Naval Surface Warfare Center
 Dahlgren Co: King George VA 22448–
 Landholding Agency: Navy
 Property Number: 77200130126
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. B9462
 Naval Surface Warfare Center
 Dahlgren Co: King George VA 22448–
 Landholding Agency: Navy
 Property Number: 77200130127
 Status: Unutilized
 Reason: Extensive deterioration
 58 Housing Units
 Marine Corps Base
 Quantico Co: VA 22134–
 Landholding Agency: Navy
 Property Number: 77200210040
 Status: Unutilized
 Reason: Extensive deterioration
 18 Housing Units
 Marine Corps Base
 Quantico Co: VA
 Landholding Agency: Navy
 Property Number: 77200210041
 Status: Unutilized
 Reason: Extensive deterioration
 Bldgs. CAD18, CAD19
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210047
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD20, CAD21
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210048
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD22, CAD23
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210049
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD24
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210050
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD98
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210051
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD136, CAD162
 Naval Weapons Station
 Yorktown Co: VA 23691–

Landholding Agency: Navy
 Property Number: 77200210052
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD215, CAD219
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210053
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD330–CAD334
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210054
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD335–CAD339
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210055
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. CAD350–CAD353
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210056
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD392
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210057
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 414
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210058
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 418
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210059
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 420
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210060
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 468
 Naval Weapons Station
 Yorktown Co: VA 23691–
 Landholding Agency: Navy
 Property Number: 77200210061
 Status: Excess
 Reason: Extensive deterioration
 8 Bldgs.
 Marine Corps Base
 #3220–3227
 Quantico Co: VA 22134–
 Landholding Agency: Navy
 Property Number: 77200210062
 Status: Excess

Reason: Extensive deterioration
 6 Bldgs.
 Marine Corps Base
 2600A, 2604, 2631, 2664, 26123, 261512
 Quantico Co: VA 22134–
 Landholding Agency: Navy
 Property Number: 77200210063
 Status: Excess
 Reason: Extensive deterioration
 Washington
 Bldg. 6661
 Naval Submarine Base, Bangor
 Silverdale Co: Kitsap WA 98315–6499
 Landholding Agency: Navy
 Property Number: 77199730039
 Status: Unutilized
 Reason: Secured Area
 Bldg. 604
 Manchester Fuel Department
 Port Orchard WA 98366–
 Landholding Agency: Navy
 Property Number: 77199810170
 Status: Excess
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 288
 Fleet Industrial Supply Center
 Bremerton WA 98314–5100
 Landholding Agency: Navy
 Property Number: 77199810171
 Status: Excess
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 47
 Naval Radio Station T Jim Creek
 Arlington Co: Snohomish WA 98223–
 Landholding Agency: Navy
 Property Number: 77199820056
 Status: Unutilized
 Reasons: Secured Area, Extensive
 deterioration
 Bldg. 48
 Naval Radio Station T Jim Creek
 Arlington Co: Snohomish WA 98223–
 Landholding Agency: Navy
 Property Number: 77199820057
 Status: Unutilized
 Reasons: Secured Area, Extensive
 deterioration
 Coal Handling Facilities
 Puget Sound Naval Shipyard
 #908, 919, 926–929
 Bremerton WA 98314–5000
 Landholding Agency: Navy
 Property Number: 77199820142
 Status: Excess
 Reason: Within 2000 ft. of flammable or
 explosive material
 Bldg. 193
 Puget Sound Naval Shipyard
 Bremerton WA 98310–
 Landholding Agency: Navy
 Property Number: 77199820143
 Status: Unutilized
 Reason: contamination
 Bldg. 202
 Naval Air Station Whidbey Island
 Oak Harbor WA 98278–
 Landholding Agency: Navy
 Property Number: 77199830019
 Status: Excess
 Reason: Within 2000 ft. of flammable or
 explosive material
 Bldg. 2649

Naval Air Station Whidbey Island
Oak Harbor WA 98278—
Landholding Agency: Navy
Property Number: 77199830020
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Extensive deterioration
Bldgs. 35, 36
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223—
Landholding Agency: Navy
Property Number: 77199830076
Status: Unutilized
Reason: Extensive deterioration
Bldg. 918
Puget Sound Naval Shipyard
Bremerton WA 98314—5000
Landholding Agency: Navy
Property Number: 77199840020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 894
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345—7610
Landholding Agency: Navy
Property Number: 77199920085
Status: Underutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 73
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345—
Landholding Agency: Navy
Property Number: 77199920152
Status: Underutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 210A
Naval Station Bremerton
Bremerton Co: WA 98314—
Landholding Agency: Navy
Property Number: 77199930021
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 511
Naval Station Bremerton
Bremerton Co: WA 98314—
Landholding Agency: Navy
Property Number: 77199930022
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 527
Naval Station Bremerton
Bremerton Co: WA 98314—
Landholding Agency: Navy
Property Number: 77199930023
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 97
Naval Air Station
Whidbey Island
Oak Harbor Co: WA 98278—
Landholding Agency: Navy
Property Number: 77199930040
Status: Unutilized
Reason: Extensive deterioration
Bldg. 331
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345—

Landholding Agency: Navy
Property Number: 77199930041
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 786
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345—
Landholding Agency: Navy
Property Number: 77199930042
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 15
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278—3500
Landholding Agency: Navy
Property Number: 77199930071
Status: Unutilized
Reason: Extensive deterioration
Bldg. 119
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278—3500
Landholding Agency: Navy
Property Number: 77199930072
Status: Unutilized
Reason: Extensive deterioration
Bldg. 853
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278—3500
Landholding Agency: Navy
Property Number: 77199930073
Status: Unutilized
Reason: Extensive deterioration
Bldg. 854
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278—3500
Landholding Agency: Navy
Property Number: 77199930074
Status: Unutilized
Reason: Extensive deterioration
Bldg. 166
Puget Sound Naval Shipyard
Bremerton Co: WA 98314—5000
Landholding Agency: Navy
Property Number: 77199930101
Status: Excess
Reason: Secured Area
Bldg. 287
Puget Sound Naval Shipyard
Bremerton Co: WA 98314—5000
Landholding Agency: Navy
Property Number: 77199930102
Status: Excess
Reason: Secured Area
Bldg. 418
Puget Sound Naval Shipyard
Bremerton Co: WA 98314—5000
Landholding Agency: Navy
Property Number: 77199930103
Status: Excess
Reason: Secured Area
Bldg. 858
Puget Sound Naval Shipyard
Bremerton Co: WA 98314—5000
Landholding Agency: Navy
Property Number: 77199930104
Status: Excess
Reason: Secured Area
Bldg. 17
Naval Radio Station
Jim Creek
Arlington Co: WA 98223—8599
Landholding Agency: Navy

Property Number: 77200010073
Status: Excess
Reasons: Secured Area, Extensive
deterioration
Bldg. 47
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345—7610
Landholding Agency: Navy
Property Number: 77200010074
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Whitney Point Complex
Brinnon Co: Jefferson WA 98320—9899
Landholding Agency: Navy
Property Number: 77200010102
Status: Excess
Reason: Extensive deterioration
Bldg. 398
Naval Station
Bremerton Co: WA 98314—5000
Landholding Agency: Navy
Property Number: 77200020038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 976
Naval Station
Bremerton Co: WA 98314—5020
Landholding Agency: Navy
Property Number: 77200020039
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
8 Bldgs.
Naval Station 902, 903, 905, 907, 909—911,
915
Bremerton Co: WA 98314—5020
Landholding Agency: Navy
Property Number: 77200020040
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 109
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339—9723
Landholding Agency: Navy
Property Number: 77200030020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 157
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339—9723
Landholding Agency: Navy
Property Number: 77200030021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 161
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339—9723
Landholding Agency: Navy
Property Number: 77200030022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 170
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339—9723

Landholding Agency: Navy
 Property Number: 77200030023
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 262
 Naval Weapons Station
 Port Hadlock Co: Jefferson WA 98339-9723
 Landholding Agency: Navy
 Property Number: 77200030024
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 482
 Puget Sound Naval Shipyard
 Bremerton Co: WA 98314-5000
 Landholding Agency: Navy
 Property Number: 77200040019
 Status: Excess
 Reason: Secured Area
 Bldg. 529
 Puget Sound Naval Shipyard
 Bremerton Co: WA 98314-5000
 Landholding Agency: Navy
 Property Number: 77200040020
 Status: Excess
 Reason: Secured Area
 Bldg. 133
 Naval Undersea Warfare Station
 Keyport Co: Kitsap WA 98345-7610
 Landholding Agency: Navy
 Property Number: 77200120133
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 2511
 NAS Whidbey Island
 Oak Harbor Co: Island WA 98278-3500
 Landholding Agency: Navy
 Property Number: 77200120157
 Status: Excess
 Reason: Secured Area
Land (by State)
 California
 Space Surv. Field Station
 Portion/Off Heritage Road
 San Diego CA 90012-1408
 Landholding Agency: Navy
 Property Number: 77199820049
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 Land
 Naval Construction Battalion Center
 Port Hueneme Co: Ventura CA 93043-4301
 Landholding Agency: Navy
 Property Number: 77199940001
 Status: Underutilized
 Reason: Secured Area
 PCL-4 (11.60 acres)
 Construction Battalion Center
 Port Hueneme Co: Ventura CA 93043-4301
 Landholding Agency: Navy
 Property Number: 77200020095
 Status: Underutilized
 Reason: Secured Area
 Parcel 8
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy

Property Number: 77200110040
 Status: Underutilized
 Reason: Secured Area
 Parcel 10
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110041
 Status: Underutilized
 Reason: Secured Area
 Parcel 12
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110043
 Status: Underutilized
 Reason: Secured Area
 Parcel 13
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110044
 Status: Underutilized
 Reason: Secured Area
 Parcel 14
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110045
 Status: Underutilized
 Reason: Secured Area
 Connecticut
 FAA Direction Finder 11 Quarry Rd.
 Killingly Co: CT 06241-
 Landholding Agency: GSA
 Property Number: 54200110008
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-U-CT-544
 District Of Columbia
 1600 sq. ft./T-88
 Naval Research Lab
 Washington Co: DC 20375-5320
 Landholding Agency: Navy
 Property Number: 77200110118
 Status: Unutilized
 Reason: Within 2000 ft. of flammable or explosive material
 Florida
 (P) Ponce de Leon Inlet
 2999 N. Peninsula Ave.
 New Smyrna Beach Co: Volusia FL 32169-
 Landholding Agency: GSA
 Property Number: 54199940015
 Status: Excess
 Reason: Floodway
 GSA Number: 4-U-FL-1170
 Illinois
 7 Parcels
 Illinois Waterway, Cal-Sag Channel
 Chicago Co: Cook IL 60633-
 Landholding Agency: GSA
 Property Number: 54200140006
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-D-IL-654-A
 Kentucky
 9 Tracts
 Daniel Boone National Forest
 Co: Owsley KY 37902-

Landholding Agency: GSA
 Property Number: 54199620012
 Status: Excess
 Reason: Floodway
 GSA Number: 4-G-KY-607
 Maine
 Parcel 2
 Naval Air Station
 Canam Drive
 Topsham Co: Cumberland ME 04086-
 Landholding Agency: Navy
 Property Number: 77200130026
 Status: Unutilized
 Reason: Secured Area
 Parcel 3
 Naval Air Station
 Canam Drive
 Topsham Co: Cumberland ME 04086-
 Landholding Agency: Navy
 Property Number: 77200130027
 Status: Unutilized
 Reason: Secured Area
 Parcel 5
 Naval Air Station
 Canam Drive
 Topsham Co: Cumberland ME 04086-
 Landholding Agency: Navy
 Property Number: 77200130028
 Status: Unutilized
 Reason: Secured Area
 Maryland
 6 Acres
 Naval Air Station
 Patuxent River Co: MD 20670-
 Landholding Agency: Navy
 Property Number: 77199940023
 Status: Unutilized
 Reason: Secured Area
 Land-5000 sq. ft.
 Naval Air Station
 Patuxent River Co: MD 20670-1603
 Landholding Agency: Navy
 Property Number: 77200010023
 Status: Unutilized
 Reason: Secured Area
 Michigan
 Port/EPA Large Lakes Rsch Lab
 Grosse Ile Twp Co: Wayne MI
 Landholding Agency: GSA
 Property Number: 54199720022
 Status: Excess
 Reason: Within airport runway clear zone
 GSA Number : 1-Z-MI-554-A
 North Carolina
 0.85 parcel of land
 Marine Corps Air Station, Cherry Point
 Havelock Co: Craven NC 28533-
 Landholding Agency: Navy
 Property Number: 77199740074
 Status: Unutilized
 Reason: Secured Area
 Parcel of land
 144 sq. ft.
 Marine Corps Base
 Camp Lejeune Co: Onslow NC 28542-
 Landholding Agency: Navy
 Property Number: 77200120126
 Status: Underutilized
 Reason: Secured Area
 Ohio
 Lewis Research Center
 Cedar Point Road

Cleveland Co: Cuyahoga OH 44135–
Landholding Agency: GSA
Property Number: 54199610007
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material
Within airport runway clear zone
GSA Number : 2–Z–OH–598–I
Puerto Rico
330 acres
Naval Radio Transmitter Facility
Aguada Co: PR 00602–
Landholding Agency: Navy
Property Number: 77200130013
Status: Underutilized
Reasons: Floodway, Secured Area
242 acres
Naval Radio Receiver Facility
Salinas Co: PR 00751–
Landholding Agency: Navy
Property Number: 77200130014
Status: Underutilized
Reasons: Floodway, Secured Area
408 acres
Naval Radio Transmitter Facility
Isabela Co: PR 00662–
Landholding Agency: Navy
Property Number: 77200130015
Status: Underutilized
Reason: Secured Area
Washington
Hanford Training Site
Horn Rapids Rd.
Benton Co: WA
Landholding Agency: GSA
Property Number: 54200210012
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
GSA Number : 9–B–WA1198A
Land-Port Hadlock Detachment
Naval Ordnance Center Pacific Division
Port Hadlock Co: Jefferson WA 98339–
Landholding Agency: Navy
Property Number: 77199640019
Status: Underutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
[FR Doc. 02–4098 Filed 2–21–02; 8:45 am]
BILLING CODE 4210–29–P

INTER-AMERICAN FOUNDATION

Inter-American Foundation Board Meeting; Sunshine Act

TIME AND DATE: March 1, 2002, 9:00–3:30
p.m.

PLACE: Inter-American Foundation, 901
N. Stuart Street, Arlington, VA 22201.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the
April 23, 2001, Meeting of the Board of
Directors
- President's Report
- Congressional Appropriations
Update
- Advisory Council
- Special Investment Initiative

CONTACT PERSON FOR MORE INFORMATION: Carolyn Karr, General Counsel, (703) 306–4350.

Dated: January 20, 2002.

Carolyn Karr,
General Counsel.

[FR Doc. 02–4418 Filed 2–20–02; 1:49 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–1430–ET; AA–49284]

Realty Action; Termination of Classification and Opening Order: Alaska

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of Realty Action.

SUMMARY: This notice terminates a
Small Tract Classification and opens
certain lands near Port Moller, Alaska,
that were classified for small tract lease
under the Small Tract Act of June 1,
1938 (52 Stat. 609) is amended. This
action would allow the land to be
conveyed to the State of Alaska if such
land is otherwise available.

EFFECTIVE DATE: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

Kathy A. Stubbs, Anchorage Field
Office, 6881 Abbott Loop Road,
Anchorage, Alaska 99507; telephone
number 907–267–1284.

SUPPLEMENTARY INFORMATION:

Classification Order No. 386–NC dated
June 1, 1961, segregated the lands from
all forms of appropriation under the
public land laws, including location
under the mining laws, except as to
application under the mineral leasing
laws and the Small Tract Act. The Small
Tract Act was repealed by section 702
of the Federal Land Policy and
Management Act of October 21, 1976
(43 U.S.C. 1701). Accordingly the
classification is not longer applicable.

1. Pursuant to the regulations
contained 43 CFR 2091.7–1(b)(2), at 9
a.m. on February 22, 2002.
Classification Order No. 386–NC dated
June 1, 1961, is hereby terminated
insofar as it affects the following
described land:

Seward Meridian, Alaska

A–049284

T.48S., R. 72 W., (surveyed) Tract A.

The area described contains 5 acres in Port
Moller, Alaska.

2. The State of Alaska application for
selection made under section 6(b) of the
Alaska Statehood Act of July 7, 1958, 48
U.S.C. note prec. 21 (1995), and under
section 906(e) of the Alaska National

Interest Lands Conservation Act, 43
U.S.C. 1635(e) (1994), becomes effective
without further action by the State upon
publication of this notice in the **Federal
Register**, if such land is otherwise
available. Land not conveyed to the
State will be subject to the terms and
conditions of Public Land Order No.
5186, as amended, and any other
withdrawal or segregation of record.

June A. Bailey,

Acting Field Manager.

[FR Doc. 02–4229 Filed 2–21–02; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1430–EU]

Notice of Realty Action

AGENCY: Bureau of Land Management,
Interior.

ACTION: Direct sale of public lands in
Boulder County, Colorado.

SUMMARY: The following described lands
have been examined and found suitable
for disposal by direct sale under section
203 of the Federal Land Policy and
Management Act of 1976 (43 U.S.C.
1713) at no less than the appraised fair
market value. The land will not be
offered for sale until at least 60 days
after the date of this notice.

COC–64710

6th Principal Meridian, Colorado

T. 1 N., R. 73 W., section 12: Lot 54
containing 1.95 acres, more or less.

COC–63204

6th Principal Meridian, Colorado

T. 1 N., R. 72 W., section 6: Lots 128, 131,
132, 133, 134 containing 1.21 acres, more
or less.

The land has been classified for
disposal pursuant to section 7 of the
Taylor Grazing Act. The lands described
in this Notice were identified for
disposal in a land use plan which was
in effect on July 25, 2000, and proceeds
from these sales will be deposited in the
Federal Land Disposal Account
authorized under section 206 of the
Federal Land Transaction Facilitation
Act, Pub. L. 106–248. The land
described is segregated by a previous
segregation, COC–63471, dated
December 21, 1999. The land is
segregated from location, entry or
patenting under the general mining laws
and from appropriation under the
public land laws, except as to land
exchange, Recreation and Public

Purposes lease and patent, or direct sale under section 203 of the Federal Land Policy and Management Act of October 21, 1976 to resolve inadvertent trespass. Native American consultation has been completed on lands managed by the Bureau of Land Management in Boulder County.

The land will be offered as follows: COC-64710 to County of Boulder and COC-63204 to Lenore Seiler. These lands will be offered to resolve historic unauthorized residential use. The patents, when issued, will contain a reservation of all minerals to the United States and will be subject to any existing rights of record. Detailed information concerning these reservations as well as specific conditions of the sale will be available upon request.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, Interested parties may submit comments to Roy Masinton, Field Office Manager, at the address listed below. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

ADDRESSES: Bureau of Land Management, Royal Gorge Field Office, 3170 East Main St., Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Jan Fackrell, Realty Specialist (719) 269-8525.

Dated: January 3, 2002.

Roy L. Masinton,
Field Office Manager.

[FR Doc. 02-4314 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-110-1430-ER; COC-61966, COC-64359, COC-61963, COC-61964, COC-61965, COC-65274, COC-61962-1 thru 6]

Notice of Realty Action: Noncompetitive/Modified Competitive Sale of Public Lands; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following lands have been found suitable for direct or modified competitive sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated fair market value (FMV) indicated. The land will not be offered for sale until at least April 23, 2002. All

legal descriptions are Sixth Principal Meridian, Colorado.

Parcel 1 (COC61966); contains 10.47 acres m/l; FMV of \$40,000; direct sale to Chris Halandras

T. 1 N., R. 95 W.,
Sec. 29, lot 15.

Parcel 2 (COC64359); contains 2.52 acres m/l; FMV of \$10,000; direct sale to Victor Parker

T. 1 N., R. 95 W.,
Sec. 32, lot 46

Parcel 3 (COC61963); contains 3.35 acres m/l; FMV of \$2,500; direct sale to Walter Powell

T. 2 N., R. 99 W.,
Sec. 6, lot 22.

Parcel 4 (COC61964); contains 7.85 acres m/l; FMV of \$11,775; direct sale to Gary Staley

T. 2 N., R. 100 W.,
Sec. 8, lot 13.

Parcel 5 (COC61965); contains 7.5 acres m/l; FMV of \$4,500; direct sale to Mark Slawson

T. 3 S., R. 101 W.,
Sec. 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

Parcel 6 (COC65274); contains 80 acres m/l; FMV of \$160,000; direct sale to James Goff

T. 3 S., R. 93 W.,
Sec. 29, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 3 S., R. 94 W.,
Sec. 14, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Parcel 7 (COC61962-2); contains 2.49 acres m/l; FMV of \$25,750; direct sale to Taylor Temples

T. 1 N., R. 91 W.,
Sec. 36, lot 38

Parcel 8 (COC61962-1); contains 4.24 acres m/l; FMV of \$63,600; modified competitive sale, offered to adjacent landowners

T. 1 N., R. 91 W.,
Sec. 25, lot 15.

Parcel 9 (COC 61962-4); contains 5.02 acres m/l; FMV of \$68,150; modified competitive sale offered to adjacent landowners

T. 1 N., R. 91 W.,
Sec. 36, lots 59 and 60.

Parcel 10 (COC61962-3); contains 5.01 acres m/l; FMV of \$68,000; modified competitive sale offered to adjacent landowners

T. 1 N., R. 91 W.,
Sec. 36, lots 19 and 39.

Parcel 11 (COC61962-5,6); contains 9.75 acres m/l; FMV of \$132,350; direct sale to Howard Cooper

T. 1 N., R. 91 W.,
Sec. 36, lots 27, and 52.

In accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315 f, and Executive Order 6910, the described lands are hereby classified for disposal by sale. The described lands are classified for disposal, and this proposed sale is in conformance with the White River Resource Management Plan dated July 1, 1997.

These lands were identified for disposal in an approved land use plan in effect on July 25, 2000. The proceeds from sale will be deposited in the Federal Land Disposal Account established with the Federal Lands Transaction Facilitation Act, Public Law 106-248.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

Parcels 8, 9, and 10, will be offered for sale at auction beginning at 10 AM MST on April 8, 2002, at 73544 highway 64, Meeker, Colorado. Only owners of adjacent parcels of land will be qualified to bid. The purpose of the sale is to implement land tenure adjustment decisions made in the White River Resource Management Plan of 1997.

Sealed bids for parcels 8, 9, and 10, must be submitted to the BLM White River Field Office at 73544 Highway 64, Meeker, Colorado 81641, not later than 4:00 PM MST, April 8, 2002. Bid envelopes must be marked on the left front corner with the file and parcel numbers, and the sale date. Bids must be for not less than the appraised FMV as stated in this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of Interior, BLM, for not less than 10 percent of the bid amount. The remainder of the full bid price must be paid within 180 calendar days of the date of sale. Failure to pay the full price within 180 days will disqualify the apparent high bidder and cause the bid deposit to be forfeited to the BLM.

The patents, when issued, will contain certain reservations to the United States and will be subject to existing easements as follows:

1. In all patents, all mineral deposits are reserved to the United States together with the right to explore for and extract the same under applicable regulations;

2. In all patents, a right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. In the patent for parcel 3, the United States will reserve an exclusive right of access across the existing Boise Creek Road where it crosses the subject parcel.

"Patents for the lands in the following parcels will be subject to existing rights-of-way":

Parcel #	Serial #	Width	Purpose	Current R/W holder
1 & 2	COD-057420	Variable	State Hwy 64	Colo. Dept' Transportation.
	COC-25262	16 ft	Telephone Line	Qwest Corporation.
	COC-64007	8 ft	Fiber Optics Cable	Uintah Basin Telecom Assoc.
3	COC-39399	40 ft	Elec Power Line	Moon Lake Electric Assoc.
4	COC-48525	20 ft	Elec Power Line	Moon Lake Electric Assoc.
	COC-49119	30 ft	Access Road	Gary Staley.
		10 ft	Water Pipeline	Gary Staley.
7	COC-59836	10 ft	Water Pipelines	Taylor & Norma Temples.
7 & 8	COC-39375	20 ft	Elec Power Line	White River Electric Assoc.
9 & 10	COC-52068	10 ft	Telephone Line	Qwest Corporation.
11	COC-0120824	25 ft	Elec Power Line	White River Electric Assoc.
	COC-62356	20 ft	Access Road	Howard Cooper.

"Patents for the lands in Parcels 7, 9, 10, and 11 will be issued subject to the provisions, reservations, conditions, and limitations of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075) as amended by the Act of August 26, 1935 (49 Stat. 846; 16 U.S.C. Sec. 818)".

Detailed information concerning the sale, including the reservations, procedures for and specific conditions of the sale, and planning and environmental documents, are available for review at the White River Field Office, Bureau of Land Management, 73544 Highway 64, Meeker, Colorado 81641, during regular office hours of 7:45 a.m. to 4:30 p.m.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, White River Field Office, at the above address. Adverse comments will be reviewed by the Colorado State Director, who may sustain, vacate, or modify this realty action. In the absence of timely adverse comments, this proposal shall become the final determination of the Department of the Interior. The BLM may accept or reject any or all offers, or withdraw any land or interest in land from sale.

Dated: January 29, 2002.

Kent E. Walter,
Field Manager.

[FR Doc. 02-4315 Filed 2-21-02; 8:45 am]

BILLING CODE 1430-JB-P

DEPARTMENT OF THE INTERIOR

National Park Service

Chalmette Battlefield Task Force

AGENCY: National Park Service, Interior.

ACTION: Establishment.

SUMMARY: The Secretary of the Interior is establishing the Chalmette Battlefield Task Force to review the condition of federally-owned buildings and artifacts within the boundary of the Chalmette

National Cemetery and Chalmette Battlefield units of Jean Lafitte National Historical Park and Preserve, and make recommendations to the National Park Service on improvements.

FOR FURTHER INFORMATION CONTACT:

Geraldine Smith, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, LA 70130; telephone 504-589-3882; fax 504-589-3864.

SUPPLEMENTARY INFORMATION: In accordance with the intent of Congress as expressed in House Report 106-222, the Secretary of the Interior is administratively establishing the Chalmette Battlefield Task Force to advise the National Park Service on the condition of and make recommendations on suggested improvement to the Chalmette Battlefield. The Task Force will be comprised of 13 members appointed by the Secretary of the Interior, as follows:

- (a) Superintendent, Jean Lafitte National Historical Park and Preserve;
- (b) One representative of the St. Bernard Parish government;
- (c) Two representatives of the St. Bernard Parish Council;
- (d) One representative of the St. Bernard Port and Harbor Terminal District;
- (e) One representative of the Lake Borgne Basin Levee District;
- (f) One representative of the Louisiana Society of United States Daughters of 1812;
- (g) One representative of the Fazendeville Descendants, as nominated by The Battle Ground Baptist Church;
- (h) One representative of the local tourism industry, as nominated by the New Orleans Metropolitan Convention and Visitors Bureau, Inc.;
- (i) One representative from nominations by the New Orleans Regional Chamber of Commerce;
- (j) One representative of the St. Bernard Historical Society;
- (k) One representative from nominations by the Louisiana State Historic Preservation Officer; and

(l) One representative from nominations by the Jackson Barracks Unit of the Louisiana Army National Guard.

Copies of the Task Force's charter will be filed with the appropriate committees of the Congress and with the Library of Congress in accordance with section 9(c) of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix.

Records of Meetings: In accordance with requirements of the Federal Advisory Committee Act, the NPS will keep a record of all Task Force meetings.

Administrative Support: To the extent authorized by law, the NPS will fund the costs of the Task Force and provide administrative support and technical assistance for the activities of the Task Force.

Certification: I hereby certify that the administrative establishment of the Chalmette Battlefield Task Force is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Act of October 2, 1968, as amended, 16 U.S.C. 1241 et seq.

Dated: October 24, 2001.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02-4324 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Issue a Temporary Concession Contract for Raft Float Trips and Limited Visitor Services at Willow Beach Site Within Lake Mead National Recreation Area

SUMMARY: Pursuant to the National Park Service Concessions Management Improvement Act of 1998, notice is hereby given that the National Park Service intends to issue a temporary concession contract authorizing

continued operation of raft float trips from below Hoover Dam to the public, and provide limited visitor service at Willow Beach Site within Lake Mead National Recreation Area. The temporary concession contract will be for a team of not more than three years. This short-term concession contract is necessary to avoid interruption of visitor services while the National Park Service finalizes the development of the Prospectus to be issued for a long-term concession contract. This short-term contract will be for a three-year period ending December 31, 2004. This notice is pursuant to 36 CFR part 51, section 51.24(a).

SUPPLEMENTARY INFORMATION: The concession authorization at Lake Mead National Recreation Area for the raft float trips expired on November 30, 2001. The operation is seasonal and operates primarily from February through November and provides visitors with an opportunity to take raft float trips from below Hoover Dam to a designated takeout point down lake from the dam on Lake Mohave. In addition, to the operation of the float trips limited visitor services will be conducted at Willow Beach Site. This service will be for those visitors who are disembarking from the float trips as well as those visitors who are recreating on the upper portion of Lake Mohave within Lake Mead National Recreation Area. Lake Mead National Recreation Area is in a process of reviewing its visitor services plan and developing a Prospectus for the solicitation of a long-term concession contract that meets the requirements of the park's General Management Plan regarding commercial services offered to the public. The short-term concession contract will allow for this action to take place without a long-term delay in service to the public.

Information about this notice can be sought from:

National Park Service, Chief, Concession Program Management Office, Pacific West Region, Attn: Mr. Tony Sisto, 1111 Jackson Street, Suite 700, Oakland, California 94607, or call (510) 817-1366.

Dated: January 30, 2002.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.
[FR Doc. 02-4322 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Impact Statement on Vessel Quotas and Operating Requirements for Glacier Bay National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The National Park Service (NPS) is preparing an environmental impact statement (EIS) on vessel quotas and operating requirements for Glacier Bay National Park and Preserve, under the provisions of the National Environmental Policy Act (NEPA). The purpose of the EIS is to evaluate a range of alternatives for establishing vessel quotas and operating requirements in Glacier Bay proper, Dundas Bay and Taylor Bay.

A reasonable range of alternatives will be developed for consideration in the EIS that are responsive to significant issues raised through public involvement and comment. The proposed action would continue vessel quotas and operating requirements in accordance with the 1996 regulations. Those regulations, 36 CFR 13.65(b), established a daily limit of two cruise ships, three tour boats, six charter boats and 25 private boats in Glacier Bay proper. Seasonal entries (June 1 through August 31) were established as follows: cruise ships (139), tour boats (276), charter boats (312), and private boats (468). The regulations further provide that the number of cruise ships could be increased to 184 if scientific and other information indicated such an increase would assure protection of the values and purposes of the park. Any increase under the regulations is subject to the maximum daily limit of two cruise ships per day.

Alternatives will consider raising motorized vessel entry quotas above those established by the 1996 regulations and reducing motorized vessel entry quotas. Companion operating requirements will be identified for each alternative. The range of alternatives will consider the following preliminary issues:

- The impact of motorized vessels on park resources and values, including federally endangered humpback whales and threatened Steller sea lions.
- The level and type of motorized vessel use, in all seasons, consistent with the purposes and values of Glacier Bay National Park.
- The use of vessel quotas and operating requirements consistent with

providing a range of visitor experiences including opportunities for solitude.

Scoping: The NPS requests input from federal and state agencies, local government, private organizations, recreational users, and the public. Written scoping comments are being solicited. Further information on this planning process will be available through public scoping meetings, press releases, and newsletters. Scoping meetings will be held in Anchorage, Juneau, Gustavus, Hoonah, Elfin Cove, and Pelican, Alaska and in Seattle, Washington. Specific dates, times, and locations of scoping meetings will be announced.

If individuals submitting comments request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. The NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

DATES: Comments concerning the scope of this project should be received within 60 days of publication of this notice. The draft EIS is projected to be available in early 2003. Comments may be mailed to the address provided below.

FOR FURTHER INFORMATION CONTACT: Joan B. Darnell, Environmental Resources Team Manager, National Park Service, Alaska Support Office, 2525 Gambell Street, Anchorage, Alaska 99503. Telephone (907) 257-2648, Fax (907) 257-2517.

SUPPLEMENTARY INFORMATION: The 3.3 million acre Glacier Bay National Park and Preserve encompasses 940 square miles of marine waters and is home to the endangered humpback whale. Glacier Bay is a major tourist destination where watercraft provides primary access to features of interest. Regulations modifying earlier vessel quotas, operating requirements, special use areas and mitigative measures were finalized in May 1996 (36 CFR 13.65) based on a May 1995 VMP/ Environmental Assessment. The plan was approved by a March 1996 Finding of No Significant Impact, and included a National Marine Fishery Service Biological Opinion on the humpback whale, Steller sea lion and gray whale. NPS has developed a research program based on the conservation

recommendations of the Biological Opinion.

Vessel numbers and operating requirements for cruise ships, tour boats, charter boats, and private boats have been in place for Glacier Bay National Park since 1979. Regulations implementing the 1996 Vessel Management Plan increased vessel entries above 1985 levels for cruise ships (30 percent increase initially; up to 72 percent increase) charter boats (8 percent increase) and private vessels (15 percent increase). Vessel operating requirements were also set for all vessel types, including tour boats.

On February 23, 2001, the 9th Circuit Court of Appeals determined that the portion of the 1996 VMP and the implementing regulations that authorized an increase in vessels into Glacier Bay violated NEPA because an EIS was not prepared. Accordingly, further increases in vessel traffic were prohibited and current traffic levels were returned to their pre-1996 levels. On November 5, 2001, Pub. L. 107-63 (155 Stat. 414) was signed into law. Section 130 of the act requires preparation of an EIS to identify and analyze the possible effects of the 1996 increases in the number of vessel entries issued for Glacier Bay National Park and Preserve. Section 130 further provides that the EIS is to be completed by January 1, 2004.

Dated: February 7, 2002.

Robert L. Arnberger,

Regional Director, Alaska.

[FR Doc. 02-4323 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Memorial Commission; Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission (the Commission) will be held at 9:30 a.m., on Friday, March 1, 2002, at the National Building Museum, Room 312, 5th and F Streets, NW., Washington, DC.

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

In addition to discussing general matters and conducting routine business, the Commission will review the following:

Action Items

(1) Consideration of a recommendation relative to placement, within Area I as established by the Commemorative Works Act of 1986, of the Dwight D. Eisenhower Memorial (Public Law 106-79, October 25, 1999).

(2) Site Selection.

(a) Alternative Site Study for the Tomas G. Masaryk Memorial (Public Law 107-61, November 5, 2001).

(b) Alternative site study for the plaque to be placed at the Lincoln Memorial commemorating the "I Have a Dream" speech of Martin Luther King, Jr. (Public Law 106-365, October 2, 2000).

(3) Design Concept Review. Design concept review of the plaque to be placed at the Vietnam Veterans Memorial honoring post-war casualties of the Vietnam War (Public Law 106-215, June 14, 2000).

(4) Legislative Proposals introduced in the 107th Congress to establish memorials in the District of Columbia and its environs.

The Commission was established by Public Law 99-652, the Commemorative Works Act, to advise the Secretary and the Administrator, General Services Administration, (the Administrator) on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters as it may deem appropriate concerning commemorative works.

The Commission examines each memorial proposal for conformance to the Commemorative Works Act, and makes recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorials in Washington, DC, and its environs.

The members of the Commission are as follows:

Director, National Park Service; Chairman, National Capital Planning Commission; Architect of the Capitol; Chairman, American Battle Monuments Commission; Chairman, Commission of Fine Arts; Mayor of the District of Columbia; Administrator, General Services Administration; Secretary of Defense.

Due to the continued delay of mail delivery to the Main Interior Building and communication difficulties resulting from restricted modem and Internet access for all Department of the Interior agencies, this notice could not be published at least 15 days prior to the meeting dates. The National Park

Service regrets this delay but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of committee members who have adjusted their schedules to accommodate the proposed meeting dates, and the high level of anticipation by all parties who will be affected by the outcome of the committee's actions. Since the proposed meeting dates have received widespread publicity in areas news media and among the parties most affected, the National Park Service believes that the public interest will not be adversely affected by the less-than-15-days advance notice in the **Federal Register**.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Ms. Nancy Young, Executive Secretary to the Commission, at (202) 619-7097.

Dated: February 7, 2002.

Joseph M. Lawler,

Acting Regional Director, National Capital Region.

[FR Doc. 02-4379 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the national park Service for February 9, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW, Suite 400, Washington DC 20002; or by fax 202-343-1836. Written or faxed

comments should be submitted by March 11, 2002.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

Connecticut

Fairfield County

Gores, Landis, House, 192 Cross Ridge Rd., New Canaan, 02000189.

Georgia

Pickens County

Cagle House, GA 108, approx. 1½ mi. W of GA 5/515, Tate, 02000191.

Seminole County

Donalsonville Historic District, Roughly bounded by the Seaboard RR line, W. Thirt St., and Morris and S. Tennille Aves., Donalsonville, 02000190.

Indiana

Adams County

Geneva Downtown Commercial Historic District, 144–455 E. Line St., Geneva, 02000196.

Bartholomew County

Newsom—Marr Farm, 4950 S 150 D, Columbus, 02000195.

Carroll County

Wabash and Erie Canal Culvert #100, Towpath Rd. over Burnett's Creek, Lockport, 02000194.

Floyd County

Division Street School, 1803 Conservative St., New Albany, 02000193.

Franklin County

Stockheughter Covered Bridge, 27046 Enochsburg Rd., Batesville, 02000198.

Madison County

Chesterfield Spiritualist Camp District, 200–300 blks. of Eastern, Parkview, Western Drs., Chesterfield, 02000192.

Owen County

Secrest—Wampler House, 1816 Concord R., Gosport, 02000199.

Pulaski County

Vurpillat's Opera House, Jct. of Market and Main Sts., Winamac, 02000201.

St. Joseph County

Norman Heights Historic District, Roughly 2300–2900 N. Main, 2300–2800 Normandy, & 100–200 blks. E. Ardenes, Palau, Bastogne, Leyte, Saint Lo & Guam, Mishawaka, 02000203.

Tippecanoe County

Alpha Tau Omega Fraternity House, 314 Russell St., West Lafayette, 02000197.
Cairo Skywatch Tower, Cty. Rd. 850 N at Cty. Rd. 100 W, Cairo, 02000202.

Vigo County

Linton Township High School and Community Building, (Indiana's Public

Common and High Schools MPS), 13041 Pimento Circle, Pimento, 02000200.

Kansas

Crawford County

Whitesitt-Shirk Historic District, 116 E. Lindburg and 120 E. Lindburg, Pittsburg, 02000204.

Michigan

Van Buren County

Marshall's Store, 102 E. St. Joseph St., Lawrence, 02000205.

Mississippi

Hinds County

Naval and Marine Corps Reserve Center, 1815 Jefferson St., Jackson, 02000209.

Holmes County

Acona Church, Cemetery, and School, MS 17, Lexington, 02000210.

Issaquena County

Grace Archeological Site, Address Restricted, Grace, 02000206.

Noxubee County

Macon Historic District, Roughly bounded by Adams, Pearl, West, and Wayne Sts., Macon 02000207.

Pike County

Enochs, Phillip Henry, House, 1001 Dogwood Dr. Fernwood, 02000208.

Missouri

Greene County

West Walnut Street Commercial Historic District, (Springfield, Missouri MPS (Additional Documentation)), Roughly 400–300 blks. of W. Walnut St., 300–400 blks. of S. Campbell Ave., Springfield, 0200211.

Wayne County

Fort Benton, 3.5 mi. S of jct. of MO 67 and MO 34, Patterson, 02000212.

Montana

Cascade County

Tower Rock, 8 mi. S of Cascade at I–15 Interchange 247, Cascade, 02000213.

Yellowstone County

Billings West Side School, 415 Broadwater Ave., Billings, 02000214.

New Jersey

Cape May Country

Wiley, Dr. John, House, 2 N. Main St., Cape May Court House, 02000217.

Middlesex County

Livingston Homestead, 81 Harrison Ave., Highland Park, 02000215.

Warren County

Richey, John, House, 6 Schetzer Ln., Franklin, 02000216.

Ohio

Allen County

Lima Stadium, 100 S. Calument Ave. and E. Market St., Lima, 02000219.

Hamilton County

Weston, John Henry, House, 1321 Michigan Ave., Cincinnati, 02000218.

Warren County

Waynesville Main Street Historic District, Main St., Waynesville, 02000220.

Oklahoma

Creek County

Frank, John, House, 1300 Luker Ln., Sapulpa, 02000221.

Pennsylvania

Bucks County

Atkinson Road Bridge, Atkinson Rd. and Pidcock's Creek, Solebury Twp, 02000222.
Buckmanville Historic District, Street Rd. bet. Windy Bush and Buckmanville Rds., Upper Makefield, 02000224.
Ivyland Historic District, Bounded by Jacksonbille Rd., Wilson, Greeley, and Chase Aves., Ivyland, 02000225.

Chester County

Brinton-King Farmstead, 1301 Brinton's Bridge Rd., 162 Baltimore Pike, Pennsbury, 02000230.

Franklin County

Harbaugh's Reformed Church, 14301 and 14269 Harbaugh Church Rd., Washington, 02000228.

Montgomery County

Cairnwood, 3028 Huntington Pike, Bryn Athyn, 02000223.
Curtis Aboretum, 1250 W. Church Rd., Cheltenham, 02000229.

Philadelphia County

Bell Telephone Exchange Building, 8–12 N. Preston St., Philadelphia, 02000227.

Washington County

Ross, Frank L., Farm, PA 519, 0.3 mi. N of US 40, North Bethlehem, 02000226.

Rhode Island

Kent County

Read School, 1670 Flat River Rd., Conventry, 02000231.

Tennessee

Davidson County

Nashville Financial Historic District, Third Ave., North and Union St., Nashville, 02000232.

Fayette County

Oakland Presbyterian Church, 14780 TN S, Oakland, 02000235.

Madison County

Mt. Olivet Cemetery, E. Forest Ave., Jackson, 02000237.

Roane County

Molyneux Chevrolet Company—Rockwood
Fire Department Building, 104 N.
Chamberlain St., Rockwood, 02000234.

Shelby County

Elmwood Cemetery, 824 Dudley St.,
Memphis, 02000233.
Gotten, Nicholas, House, 2969 Court St.,
Bartlett, 02000236.

Washington*Benton County*

Benton City—Kiona Bridge, (Bridges and
Tunnels Built in Washington State, 1951–
1960 MPS), WA 225 over Yakima R,
Benton City, 02000240.
Pioneer Memorial Bridge—Blue Bridge,
(Bridges and Tunnels Built in Washington
State, 1951–1960 MPS), WA 395 over
Columbia R, Pasco, 02000241.

Chelan County

Wenatchee Avenue Southbound Bridge,
(Bridges and Tunnels Built in Washington
State, 1951–1960 MPS), WA 285 at
Wenatchee R, Wenatchee, 02000239.

Grays Harbor County

Chehalis River Bridge, (Bridges and Tunnels
Built in Washington State, 1951–1960
MPS), WA 101 over Chehalis, Aberdeen,
02000243.

Jefferson County

Portage Canal Bridge, (Bridges and Tunnels
Built in Washington State, 1951–1960
MPS), WA 116 over Portage Canal,
Hadlock, 02000244.

King County

Adair, William and Estella, Farm, (Dairy
Farm Properties of Snoqualmie River
Valley, Washington MPS), 27929 NE 100th
St., Carnation, 02000249.
Allen, Horatio and Laura, Farm, (Dairy Farm
Properties of Snoqualmie River Valley,
Washington MPS), 28704 NE Cherry Valley
Rd., Duvall, 02000250.
Hjertoos, Andrew and Bergette, Farm, (Dairy
Farm Properties of Snoqualmie River
Valley, Washington (MPS), 31523 NE 40th,
Carnation, 02000248.

Kitsap County

Port Washington Narrows Bridge, (Bridges
and Tunnels Built in Washington State,
1951–1960 MPS), WA 303 over
Washington Narrows, Bremerton,
02000258.

Klickitat County

Klickitat River Bridge, (Bridges and Tunnels
Built in Washington State, 1951–1960
MPS), WA 142 over Klickitat R., Lyle,
02000242.

Pierce County

Albers Brothers Mill, 1821 Dock St., Tacoma,
02000247.

Snohomish County

Snohomish River Bridge, (Bridges and
Tunnels Built in Washington State, 1951–
1960 MPS), WA 529 over Snohomish R.,
Washington 02000245.

Steamboat Slough Bridge, (Bridge and
Tunnels Built in Washington State, 1951–
1960 MPS), WA 529 over Steamboat
Slough. Marysville, 02000246.

Thurston County

Erickson, Jonas, and Maria Lovisa,
Farmstead, (Agriculture in Thurston
County MPS), 13121 Independence Rd.,
Rochester, 02000251.

Whatcom County

Gorge Creek Bridge, (Bridge and Tunnels
Built in Washington State, 1951–1960
MPS), WA 20 over Gorge Creek,
Newhalem, 02000238.

West Virginia*Kanawha County*

Smith-Giltinan House, 1223 Virginia St., E,
Charleston, 02000253.

Lewis County

Upper Gladys School, Cty Rd, 52–1.9 mi. N
of McCord Run Rd., Crawford, 02000252.

Marion County

Fairmont Senior High School, 1 Loop Park,
Fairmont, 02000254.

Pocahontas County

Beard, Richard. House, Off Cty. Rd. 31 on
Kyle Beard Rd., Hillsboro, 02000255.

Wisconsin*Crawford County*

Crow Hollow Site, Address Restricted,
Petersburg, 02000256.

Wyoming*Park County*

Mammoth Hot Springs Historic District,
North Entrance Rd. and Mammoth-Norris
Rd., Yellowstone National Park, 02000257.

A request for REMOVAL has been made for
the following resource:

Tennessee*Davidson County*

Shute-Turner House, 4112 Brandywine Point
Blvd., Nashville, 97001138.

[FR Doc. 02–4325 Filed 2–21–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR**Bureau of Reclamation**

**Central Arizona Project, Indian
Distribution Division, San Carlos
Apache Indian Reservation, Gila, Pinal,
and Graham Counties, AZ**

AGENCY: Bureau of Reclamation,
Interior.

ACTION: Notice of Intent to Prepare an
Environmental Impact Statement.

SUMMARY: Pursuant to the National
Environmental Policy Act of 1969, as
amended (NEPA), Reclamation proposes

to prepare a draft environmental impact
statement (EIS) regarding delivery of
Central Arizona Project (CAP) water to
the San Carlos Apache Reservation
(Reservation). This draft EIS will
evaluate anticipated environmental
impacts from alternative methods of
delivering CAP water and other water
resources, provided under the San
Carlos Apache Water Rights Settlement
Act of 1992 (Act). Currently, nine
conceptual options are being
investigated. A No-Action alternative
will also be analyzed. Public scoping
meetings will be held to receive
comments from affected and/or
interested agencies and the general
public on the environmental impacts,
concerns, and issues that should be
addressed in the EIS [see **DATES**].

DATES: To ensure consideration in the
preparation of the draft EIS, written
comments must be received by May 3,
2002 [see **ADDRESSES**, below]. The draft
EIS is expected to be available for public
review and comment in April 2003.

Public scoping meetings are schedule
to be held on:

- April 10, 2002, 5–8 p.m. in Bylas,
Arizona.
- April 11, 2002, 5–8 p.m. in San
Carlos, Arizona.

ADDRESSES: Send written comments to
Mr. Bruce Ellis, Chief, Environmental
Resources Management Division,
Bureau of Reclamation, Phoenix, Area
Office (PXAO–1500), PO Box 81169,
Phoenix, AZ 85069–1169; faxogram
602–216–4006.

The hearings will be held at the
following locations:

- Bylas—Stanley Hall, Highway 70,
Bylas, Arizona.
- San Carlos—Burdette Hall, San
Carlos Avenue, San Carlos, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr.
John McGlothlen at the above address,
telephone 602–216–3866.

SUPPLEMENTARY INFORMATION: The
purpose of the project is to deliver CAP
water, and other water resources to the
Reservation provided by the Act, to
sustain and expand the San Carlos
Apache Tribe's (Tribe) agricultural base
and for other Tribal homeland purposes,
in a manner that enhances efficient
development, management, and
delivery of Tribal water resources.

The Reservation encompasses about
2,960 square miles in portions of Gila,
Graham, and Pinal Counties in east-
central Arizona. Approximately 12,000
people live on the Reservation and rely
on its local water resources for
domestic, municipal, agricultural, and

industrial supply. Local water resources include flows of the Gila, Black, and Salt Rivers, other surface waters, and ground-water supplies which are available beneath the Cutter basin, San Carlos and Gila River valleys, and other areas of the Reservation. San Carlos Reservoir is another important local water resource.

In December 1980, the Tribe signed a CAP Indian Water Delivery Contract with the United States. The CAP Indian Water Delivery Contract entitles the Tribe to 12,700 acre-feet per year of CAP Project Water, commits the United States to deliver Project Water to the Tribe, provides for exchange of Project Water to accomplish the contractual obligations, and sets forth the terms for repayment of construction and operation, maintenance, and replacement costs.

In 1992 Congress enacted the Act, which confirms and ratifies an Agreement entered into by the Tribe and neighboring non-Indian communities of the Salt and Gila River valleys regarding water rights claims between and among themselves, and authorizes the actions and appropriations necessary for the United States to fulfill its obligations to the Tribe as provided in the Agreement and the Act.

The total amount of water allocated to the Tribe and available for delivery to the Reservation under the CAP Indian Water Delivery Contract and the Act is 71,445 acre-feet per year. In addition, at least 6,000 acre-feet per year are also available to the Reservation as a result of the Gila River Decree. Portions of the Act not specific to the CAP include 7,300 acre-feet per year from the Black and/or Salt Rivers and water from local Tribal water sources. The total volume of water that will be considered in project planning is 77,445 acre-feet per year, plus any water that may be available from local Tribal sources.

The draft EIS will evaluate reasonable alternative methods of delivering the CAP water and other waters described above to satisfy the project purposes. The development, evaluation, and selection of alternatives will begin with the identification of a broad list of project concepts that will be subjected to a feasibility screening based upon cultural, social, economic, technical, environmental, and legal factors. To date, nine project concepts have been identified for screening. These are as follows:

- Diversion from San Carlos Reservoir and conveyance via a canal to recharge portions of Cutter Basin and irrigate approximately 9,100 acres of Ranch Creek, Seven Mile Wash, San Carlos River, and neighboring areas;

- Diversion from the Black River and conveyance via a tunnel and the existing channel of Rocky Gulch to recharge portions of the San Carlos Basin and irrigate approximately 11,000 acres of Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from the Black River and conveyance via a tunnel and the existing channel of Rocky Gulch for storage behind Elgo Dam and to irrigate approximately 9,500 acres of Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from San Carlos Reservoir and conveyance via canals to irrigate approximately 9,100 acres adjacent to the Gila River and in portions of the Ranch Creek, Gibson Wash, Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from the Black River and conveyance via a tunnel to a reservoir constructed on Rocky Gulch, then conveyance via the existing channel of Rocky Gulch for storage behind Elgo Dam and to irrigate approximately 12,800 acres in portions of the Ranch Creek, Gibson Wash, Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from the Gila River at a point east of Bylas, and conveyance via gravity to irrigate approximately 1,000 acres adjacent to the Gila River;

- Construction of a diversion dam on the Gila River at a point east of Bylas, and conveyance to irrigate approximately 8,200 acres adjacent to the Gila River and in portions of the San Carlos River watershed;

- Diversion from the Black River at a point near the confluence with Freezeout Creek, with conveyance via a canal to a reservoir constructed on Turkey Creek, to irrigate approximately 5,300 acres in the Turkey and Willow Creek areas;

- Diversion from the Black River at a point near the confluence with Freezeout Creek, with conveyance via a tunnel and canal to a reservoir constructed on Bonita Creek, to irrigate approximately 10,200 acres in the Ash and Bonita Creeks and neighboring areas.

Public Meetings and Written Comments

The public will be invited to participate in the scoping process, and in review of the draft EIS. Additional descriptive information will be made available to interested parties prior to the public scoping meetings. Anyone interested in obtaining additional descriptive information prior to the

public scoping meetings should contact John McGlothlen [see **FOR FURTHER INFORMATION CONTACT**]. At each public scoping meeting, the Tribal CAP Project team will make a short presentation. Oral and written comments from the audience will then be accepted. A court reporter will make a written record of all oral comments made.

Written comments received by Reclamation become part of the public record associated with this action. Accordingly, Reclamation makes these comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Note: Hearing impaired, visually impaired, and/or mobility impaired persons planning to attend this meeting may arrange for necessary accommodations by calling Ms. Janice Kjesbo at Reclamation's Phoenix Area Office, telephone 602-216-3864 or faxogram 602-216-4006, no later than two weeks prior to the meeting date.

Dated: February 14, 2002.

Robert W. Johnson,
Regional Director.

[FR Doc. 02-4319 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-MN-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-02-005]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: February 27, 2002 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: None.
2. Minutes

3. Ratification List

4. Inv. No. 731-TA-988 (Preliminary) (Pneumatic Directional Control Valves from Japan)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before February 28, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before March 7, 2002.)

5. Outstanding action jackets: None. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: February 20, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02-4457 Filed 2-20-02; 2:58 pm]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Extension of a Currently Approved Collection COPS Making Officer Redeployment Effective (MORE) Grant Program.

The Department of Justice (DOJ), Office of Community Oriented Policing Services has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for "sixty days" until April 23, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305-7780, Office of Community Oriented Policing Services, U.S. Department of Justice, 1100 Vermont Avenue NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your

comments should address one or more of the following four points:

(1) Evaluate whether the 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) *The title of the form/collection:* COPS Making Officer Redeployment Effective (MORE) Grant Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form: none. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal government. Other: None. The information collection will be used by the COPS Office to determine whether law enforcement agencies are eligible for one year grants specifically targeted to provide funding for technology and equipment. The grants are meant to enhance law enforcement infrastructures and community policing efforts in these communities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,300 respondents will complete the application. The amount of estimated time required for the average respondent to respond is 27 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total burden hours to conduct this survey is 62,100 hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice

Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: February 15, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02-4221 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-AT-M

DEPARTMENT OF JUSTICE

Office of Community Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Reinstatement, with change, of a previously approved collection for which approval has expired; Department Annual Report.

The Department of Justice (DOJ), Office of Community Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for "sixty days" until April 23, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305-7780, Office of Community Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the 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:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* The title of the collection is the Department Annual Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Office of Community Oriented Policing Service, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: None. Progress Reports are survey instruments that the COPS Office uses to monitor the community policing activities for the Funding Accelerated for Small Towns, the Accelerated Hiring, Education and Development, and/or the Universal Hiring Grant Programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The estimated number of agencies that are eligible to receive and complete the Department Annual report is 6,100. The estimated amount of time required for the average respondent to complete and return the form is 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* An estimate of the total burden hours to conduct this survey is 6,100 hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 14, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02-4222 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-AT-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Addendum to Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on February 11, 2002, a proposed Addendum to the Consent Decree which will modify a settlement previously entered by the Court on March 19, 2001 in *United States and People of the State of Illinois v. Archer Daniels Midland Company* (CD Illinois), (Civil No. 00-2338), was lodged with the United States District Court for the Central District of Illinois. The Consent Decree resolved claims on behalf of the United States Environmental Protection Agency ("EDPA") and the Illinois Environmental Protection Agency ("IEPA") against the Archer Dainels Midland Company ("ADM"). The Complaint, which was filed simultaneously with the lodging of the Decree, alleged violations of the Prevention of Significant Deterioration ("PSD") requirements of Part C of the Clean Air Act (the "CAA"), 42 U.S.C. 7470-7492, and the regulations promulgated thereunder at 40 CFR 52.21 (the "PSD Rules") at the Decatur Illinois plant.

Under the Addendum to the Consent Decree, ADM will install further controls on feed dryers #5 and #6 for more complete reduction of PM and will implement new technology for the control of volatile organic compound ("VOC") emissions from these units by no later than September 30, 2003. The Addendum also establishes term limits to ensure that PM emissions are minimized pending the installation of the additional controls. The State of Illinois is joining with the United States in this action as a signatory to the Addendum.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Addendum to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and refer on its face to *United States and People of the State of Illinois v. Archer Daniels Midland Company*, D.J. Ref. 90-5-2-1-2035/2.

The Consent Decree may be examined at the Office of the United States Attorney, Central District of Illinois, 600 East Monroe Street, Springfield, Illinois 62705 and at EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. A copy of the Addendum may also be obtained by mail from the

Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy, please enclose a check in the amount of \$2.75 (25 cents per page reproduction cost) payable to the U.S. Treasury. The check should refer to *United States and People of the State of Illinois v. Archer Daniels Midland Company*, D.J. Ref. 90-5-2-1-2035/2.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources, Division.

[FR Doc. 02-4312 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(D)(2), AND 28 CFR 50.7, notice is hereby given that on January 11, 2002, a proposed Consent Decree in *United States v. Franc Motors, et al.*, Civil Action No. 3:02CV71(AWT), was lodged with the United States District Court for the District of Connecticut.

In this action, the United States sought recovery of over \$1.6 million of costs incurred by the United States Environmental Protection Agency in conducting a removal action at the National Oil Service Superfund Site in West Haven, Connecticut. The United States filed its complaint pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), seeking recovery of over \$1.6 million. The complaint named 8 defendants which arranged for the disposal of waste oil at the Site. The proposed Consent Decree resolves the United States' cost recovery claims against all of those defendants. Under the proposed Decree, the settling defendants collectively agree to pay \$305,127.14 in partial reimbursement of the United States' response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611,

and should refer on its face to *United States v. Franc Motors, et al.*, D.J. Ref. 90-11-3-07333/3.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Connecticut Financial Center, New Haven, CT, and at the Region 1 office of the Environmental Protection Agency, One Congress Street, Boston, MA. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616-6584; phone confirmation no. (202) 514-1547. There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the "U.S. Treasury," in the amount of five dollars (\$5.00) to the Consent Decree Library, U.S. Department of Justice, PO Box 7611, Washington, DC 20044-7611. The check should refer to *United States v. Franc Motors, et al.*, D.J. Ref. 90-11-3-07333/3.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-4311 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States v. Tennessee Farmers Cooperative et. al.*, Civil Action Number 3-02-0132-Nixon was lodged on February 8, 2002, with the United States District Court for Middle District of Tennessee, Nashville Division. The proposed Consent Decree would resolve certain claims under sections 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9606 & 9607, as amended brought against Tennessee Farmers Cooperative, Scott Fetzer Company, Multimedia, Inc. and R.T. Rivers to recover response costs incurred by the Environmental Protection Agency in connection with the release of hazardous substances at the Wrigley Charcoal Superfund Site ("site") in Wrigley, Hickman County, Tennessee. The United States alleges that Settling Defendants are liable either as persons who currently own or owned a portion of the Site at the time of disposal of a hazardous substance or as persons who arranged for the disposal of

hazardous substances at the Site. Under the proposed Consent Decree, the Settling Defendants will pay \$860,000 to the Hazardous Substances Superfund to reimburse the United States for response costs incurred and to be incurred at the Site. In addition, the proposed Consent Decree also resolves Settling Defendants' potential claims against the Department of Defense ("DOD") in exchange for DOD's reimbursement to EPA of \$450,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20530, and should refer to *United States v. Tennessee Farmers Cooperative et. al.*, Civil Action number 3-02-0132-Nixon, DOJ Ref. #90-11-3-06823.

The Consent Decree may be examined at the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, Atlanta, GA 30303 and the United States Attorney's Office for the Middle District of Tennessee, 110 Ninth Avenue South, Suite A961, Nashville, TN 37203 c/o Assistant U.S. Attorney Michael Roden. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, Post Office Box 7611, Washington, DC 20044. In requesting copies please refer to the referenced case and enclose a check in the amount of \$12.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen Mahan,

Environmental Enforcement Section, Assistant Section Chief, Environment and Natural Resources Division.

[FR Doc. 02-4313 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Application for Waiver of the 2-Year Foreign Residence Requirement.

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 April 23, 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*: Application for Waiver of the 2-Year Foreign Residence Requirement

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I-724J. Office of Adjudications, 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. The information furnished on form will be used by the Immigration and Naturalization Service to determine if the applicant is eligible to receive a waiver of the 2-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 15,000 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 30,000 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. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: January 4, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02-4272 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in

accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office

document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at www.access.gpo.gov/davisbacon. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition

(issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 13 day of February 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02-4121 Filed 2-21-02; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Records of All Certified and Qualified Persons; and Man Hoist Operators Physical Fitness

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Record of all Certified and Qualified Persons; and Man Hoist Operators Physical Fitness. MSHA is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before April 23, 2002.

ADDRESSES: Send comments to David L. Meyer, Director, Office of Administration and Management, 4015 Wilson Boulevard, Room 615, Arlington, VA 22203-1984. Commenters are encouraged to send their comments on a computer disk, or via Internet e-mail to Meyer-David@msha.gov, along with an original printed copy. Mr. Meyer can be reached at (703) 235-1383 (voice), or (703) 235-1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Charlene N. Barnard, Regulatory Specialist, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 725, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Ms. Barnard can be reached at barnard-charlene@msha.gov (Internet e-mail), (703) 235-1470 (voice) or (703) 235-1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

30 CFR Sections 75.155, 75.159, 75.160, 75.161, 77.105, 77.107, 77.107-1, and 77.106. Sections 75.155 and

77.105 explain the qualifications to be a qualified hoisting engineer or a qualified hoist man on a slope or shaft sinking operation. These requirements are necessary so that it can be determined who is qualified to perform these tasks and how they can become qualified.

Sections 75.159 and 77.106 requires the operator of a mine to maintain a list of all certified and qualified persons designated to perform certain duties around a mine. This list must be posted.

II. Current Actions

30 CFR 75.155, 75.159, 75.161, and 77.105, 77.106, and 77.107-1, require coal operators to maintain a list of persons who are certified and those who are qualified to perform duties which require specialized expertise at underground and surface coal mines, *i.e.*, conduct test for methane and oxygen deficiency, conduct tests of air flow, perform electrical work, repair energized surface high-voltage lines, and perform duties of hoisting engineer. The regulations also require the mine operator to have an approved training plan so that the qualified and certified people can properly perform their tasks. The recorded information is necessary to ensure that only persons who are properly trained and have the required number of years of experience are permitted to perform these duties. MSHA does not specify a format for the recordkeeping; however, it normally consists of the names of the certified and qualified person listed in two columns on a sheet of paper. One column is for certified persons and the other is for qualified persons.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Records of All Certified And Qualified Persons; and Man Hoist Operators Physical Fitness.

OMB Number: 1219-0127.

Recordkeeping: One year.

Affected Public: Business or other for-profit.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden
75.155	0	0	0	0	0
75.159	877	4	3,508	15	291
75.161	877	1	877	28	7,016
77.105	0	0	0	0	0
77.106	1,488	4	5,952	15	494

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden
77.107-1	1,488	1	1,488	² 8	11,904
Totals	4,730	10	11,825	² 16.66	19,705

¹ Minutes.² Hours.

Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 18, 2002.

David L. Meyer,
Director, Office of Administration, and Management.

[FR Doc. 02-4309 Filed 2-21-02; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted preliminarily annual fee rates of 0.00% for tier 1 and 0.075% (.00075) for tier 2 for calendar year 2002. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the preliminary fee rate on class II revenues for calendar year 2002 shall be one-half of the annual fee rate, which is 0.037% (.00037).

FOR FURTHER INFORMATION CONTACT:

Bobby Gordon, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone 202/632-7003; fax 202/632-7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The

Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 514 and 25 CFR part 518), as amended, provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the

gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the preliminary annual rate being adopted today are effective for calendar year 2002. Therefore, all gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission by March 31, 2002.

Montie E. Deer,

Chairman, National Indian Gaming Commission.

[FR Doc. 02-4326 Filed 2-21-02; 8:45 am]

BILLING CODE 7565-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247]

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit No. 2; Exemption

1.0 Background

The Entergy Nuclear Operations, Inc. (ENO or the licensee) is the holder of Facility Operating License No. DPR-26 which authorizes operation of the Indian Point Nuclear Generating Unit No. 2 (IP2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Westchester County in the State of New York.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix G, requires that the Reactor Coolant System (RCS) Pressure-Temperature (P-T) limits for an operating plant be at least as conservative as those that would be generated if the method of Appendix G to Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) (Appendix G to the Code) were applied.

In summary, this action is in response to an application by the Consolidated

Edison Company of New York, Inc. (Con Edison), the former licensee of IP2, for an exemption dated July 16, 2001. On September 6, 2001, Con Edison's interest in the license was transferred to Entergy Nuclear Operations, Inc. (ENO). By letter dated September 20, 2001, ENO requested that the NRC continue to review and act on all requests before the Commission which had been submitted before the transfer. Accordingly, the NRC staff has acted upon the request. The exemption request of July 16, 2001, was supplemented by ENO on January 11, 2002. The exemption would permit the use of the ASME Code, Section XI Code Case N-640, "Alternative Requirement Fracture Toughness for Development of P-T Limit Curves for ASME Section XI Division I," and ASME Code, Section XI Code Case N-588, "Alternative to Reference Flaw Orientation of Appendix G for Circumferential Welds in Reactor Vessels, Section XI, Division I," in lieu of 10 CFR part 50, Appendix G, paragraph I.

2.1 Code Case N-588

The requested exemption would allow use of ASME Code Case N-588 to determine stress intensity factors for postulated flaws and postulated flaw orientation for circumferential welds.

10 CFR part 50, Appendix G requires that Article G-2120 of ASME Code, Section XI, Appendix G, be used to determine the maximum postulated defects in reactor pressure vessels (RPV) for the P-T limits. These limits are determined for normal operation and test conditions. Article G-2120 specifies in part, that the postulated defect be in the surface of the RPV material and normal (*i.e.*, perpendicular) to the direction of maximum stress. ASME Code, Section XI, Appendix G, also provides a methodology for determining the stress intensity factors for a maximum postulated defect normal to the maximum stress. The purpose of this article is, in part, to ensure the prevention of non-ductile fractures by providing procedures to identify the most limiting postulated fractures to be considered in the development of P-T limits. Code Case N-588 provides relief from the Appendix G requirements, in terms of calculating P-T limits, by

revising the Article G-2120 reference flaw orientation for circumferential welds in RPVs. The reference flaw is a postulated flaw that accounts for the possibility of a prior existing defect that may have gone undetected during the fabrication process. Thus, the intended application of a reference flaw is to account for defects that could physically exist within the geometry of the weldment. The current ASME Section XI, Appendix G approach mandates the consideration of an axial reference flaw in circumferential welds for purposes of calculating the P-T limits. Postulating the Appendix G reference flaw in a circumferential weld is physically unrealistic and overly conservative, because the length of the flaw is 1.5 times the RPV wall thickness, which is much longer than the width of circumferential welds. The possibility that an axial flaw may extend from a circumferential weld into a plate or axial weld is already adequately covered by the requirement that defects be postulated in plates/forgings and axial welds.

The fabrication of RPVs for nuclear power plant operation involved precise welding procedures and controls designed to optimize the resulting weld microstructure and to provide the required material properties. These controls were also designed to minimize defects that could be introduced into the weld during the fabrication process. Industry experience with the repair of weld indications found during pre-service inspection, in-service non-destructive examinations, and data taken from destructive examination of actual RPV welds, confirms that any remaining defects are small and do not cross transverse to the weld bead. Therefore, any postulated defects introduced during the fabrication process, and not detected during subsequent non-destructive examinations, would only be expected to be oriented in the direction of weld fabrication. For circumferential welds this indicates a postulated defect with a circumferential orientation. ASME Code Case N-588 addresses this issue by allowing consideration of maximum postulated defects oriented circumferentially in circumferential welds. ASME Code Case N-588 also provides appropriate procedures for determining the stress intensity factors for use in developing RPV P-T limits per ASME Code, Section XI, Appendix G procedures. The procedures allowed by ASME Code Case N-588 are conservative and provide a margin of safety in the development of RPV P-T operating and pressure test limits that

will prevent non-ductile fracture of the RPV.

The proposed P-T limits include restrictions on allowable operating conditions and equipment operability requirements to ensure that operating conditions are consistent with the assumptions of the accident analysis. Specifically, reactor coolant system pressure and temperature must be maintained within the heatup and cooldown rate dependent P-T limits specified in TS Section 3.1.B, "Heatup and Cooldown."

2.2 Code Case N-640

The requested exemption would allow use of ASME Code Case N-640 in conjunction with ASME Code Section XI, Appendix G to determine the P-T limits for the RPV. Code Case N-640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P-T limits. Because use of the K_{Ic} fracture toughness curve results in the calculation of less conservative P-T limits than the methodology currently required by 10 CFR part 50, Appendix G, an exemption to apply the Code Case would be required by 10 CFR 50.60.

The licensee proposed to revise the P-T limits for IP2, using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P-T operating limit curves is more technically correct than the K_{Ia} curve because the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. Additionally, P-T curves based on the K_{Ic} curve will enhance overall plant safety by opening the operating window, with the greatest safety benefit in the region of low-temperature operations.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule."

Code Case N-588

The first of these exemption requests would allow ENO to apply ASME Code Case N-588 as the basis for determining the most limiting material in the IP2 RPV. Code Case N-588 is applicable only for reactor vessels that have a circumferential weld as the most limiting material in the beltline region of the RPV. The Code Case methods allow licensees to apply the lower tensile stresses associated with a circumferential crack postulated in the circumferential weld, and thus allow the licensee to use the next most limiting base metal or axial weld material in the RPV as the basis for evaluating the vessel. Since the IP2 RPV is currently limited by circumferential shell weld for the 1/4T location, this Code Case is applicable to the evaluation of the IP2 RPV.

The staff has determined that Entergy has provided sufficient technical bases for using the methods of Code Case N-588 for the calculation of the P-T limits for the IP2 reactor coolant pressure boundary (RCPB). The staff has also determined that application of Code Case N-588 to the P-T limit calculations will continue to serve the purpose in 10 CFR part 50, Appendix G, for protecting the structural integrity of the IP2 RPV and RCPB. In this case, since strict compliance with the requirements of 10 CFR part 50, Appendix G, is not necessary to serve the underlying purpose of the regulation, the staff concludes that application of Code Case

N-588 to the P-T limit calculations meets the special circumstance provisions stated in 10 CFR 50.12(a)(2)(ii), for granting this exemption to the regulation.

Code Case N-640

Entergy has requested, pursuant to 10 CFR 50.60(b), an exemption to use ASME Code Case N-640 as the basis for establishing the P-T limit curves. Appendix G to 10 CFR part 50 has required use of the initial conservatism of the K_{Ia} equation since 1974 when the equation was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, the industry has gained additional knowledge about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ic} equation is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, the RPV P-T operating window is defined by the P-T operating and test limit curves developed in accordance with the ASME Code, Section XI, Appendix G, procedure.

The ASME Working Group on Operating Plant Criteria (WGOPC) has concluded that application of Code Case N-640 to plant P-T limits is still sufficient to ensure the structural integrity of RPVs during plant operations. The staff has concurred with ASME's determination. The staff has concluded that application of Code Case N-640 would not significantly reduce the safety margins required by 10 CFR part 50, Appendix G. The staff also concluded that relaxation of the requirements of Appendix G to the Code by application of Code Case N-640 is acceptable and would maintain, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the NRC regulations to ensure an acceptable margin of safety for the IP2 RPV and RCPB. Therefore, the staff concludes that Code Case N-640 is acceptable for application to the IP2 P-T limits.

The staff examined the licensee's rationale to support the exemption requests and concluded that ENO has provided sufficient technical bases for using the methods of Code Cases N-588 and N-640 in the calculation of the P-T limits for IP2. The staff has also concluded that application of Code Case N-588 and Code Case N-640 to the P-T limit calculations will continue to serve the purpose in 10 CFR part 50, Appendix G, for protecting the structural integrity of the IP2 RPV and reactor coolant pressure boundary. In this case, since strict compliance with requirements of 10 CFR 50.60(a) and 10

CFR part 50, Appendix G, is not necessary to serve the overall intent of the regulations, the staff concludes that application of the Code Cases N-588 and N-640 to the P-T limit calculations meets the special circumstance provisions in 10 CFR 50.12(a)(2)(ii), for granting exemptions to the regulations, and that, pursuant to 10 CFR 50.12(a)(1), the granting of these exemptions is authorized by law, will not present undue risk to the public health and safety, and is consistent with the common defense and security. The staff, therefore, considers granting exemptions to 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, to allow ENO to use Code Cases N-588 and N-640 as the part of the bases for generating the P-T limit curves for IP2 is appropriate.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants ENO an exemption from the requirements of 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, for the calculation of P-T limits for IP2. The licensee shall use the methods Code Cases N-588 and N-640 in calculation of the P-T limits for IP2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 7206).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of February 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02-4242 Filed 2-21-02; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, February 28, 2002

Thursday, March 14, 2002
Thursday, March 28, 2002
Thursday, April 11, 2002
Thursday, April 25, 2002
Thursday, May 9, 2002
Thursday, May 23, 2002
Thursday, June 6, 2002
Thursday, June 27, 2002

The meeting will start at 10:00 a.m. and will be held in Room 5H09, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street, NW., Washington, DC 20415 (202) 606-1500.

Dated: February 12, 2002.

Mary M. Rose,

*Chairperson, Federal Prevailing Rate
Advisory Committee.*

[FR Doc. 02-4243 Filed 2-21-02; 8:45 am]

BILLING CODE 6325-49-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45451 File No. SR-AMEX-
2001-47]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to Issuer Listing Standards and Procedures

February 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 16, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to its proposal on January 10, 2002³ and filed Amendment No. 2 to its proposal on February 13, 2002.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the *Amex Company Guide* to adopt (i) new listing standards relating to the authority of the Amex Committee on Securities in respect of its review of initial listings; (ii) new procedures that would impose definitive time limits with respect to how long a non-

compliant company can retain its listing; (iii) substantive revisions to the initial and continued listing standards; and (iv) changes to the appeal procedures applicable to staff denials of initial listing applications and staff delisting determinations. The text of the proposed rule change is available at the principal offices of the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing certain enhancements to its initial and continued listing program. The Amex represents that the proposed changes, which are described below, are designed to provide issuers and investors greater clarity with respect to its listing qualification process, while preserving a degree of measured flexibility in the application of the listing standards and procedures.

The Exchange has also augmented its management reporting system to ensure that senior Exchange management is regularly alerted to any developing trends emerging from the listing qualifications process, with respect to outstanding listing applications, recently approved companies, and companies failing to meet or in jeopardy of failing to meet the continued listing standards. The management review will also encompass the continued status of companies approved pursuant to the proposed alternative standards as compared to those approved pursuant to the regular standards, which will also enable the staff to provide feedback to the Committee on Securities and the Board of Governors as to the effectiveness of these standards and the proposals contained herein.

Initial Listing Approval Process

Currently, the Exchange evaluates applicants for initial listing based on quantitative and qualitative guidelines, and the Exchange may exercise discretion by approving a listing applicant that does not fully satisfy each of the stated numerical guidelines.⁵ This discretion may be exercised in two ways. First, the Listing Qualifications management has the authority to approve a company for initial listing on the basis of its "substantial compliance" with the applicable guidelines. Second, the Amex Committee on Securities (the "Committee"), which the Exchange represents to be comprised of seasoned financial professionals, is authorized by the Amex Board of Governors to use its professional judgment in evaluating whether a particular issuer is appropriate for listing even though it does not fully comply with the numerical guidelines.

To provide issuers and investors with increased transparency and information regarding the manner in which securities are listed on the Amex, the Exchange is proposing the following:

1. Replace all references to listing "guidelines" with references to listing "standards."⁶
2. Revise and clarify the authority of the Listing Qualifications Department management to approve a company for initial listing, to provide that it may approve a company under the following circumstances:
 - The company satisfies new "Initial Listing Standard 1" (existing "Regular Listing Guidelines").
 - The company satisfies new "Initial Listing Standard 2" (existing "Alternate Listing Guidelines").
 - The company satisfies new "Initial Listing Standard 3" (new "Market Capitalization" standard discussed below).
 - The company satisfies new "Initial Listing Standard 4" (new "Currently Listed Securities" standard discussed below).

3. Adopt new quantitative alternative minimum listing standards limiting the authority of Committee panels with respect to the review of initial listings determinations, such that a Committee panel would be able to approve a company that did not satisfy one of the regular initial listing standards only if (a) the company satisfies new

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (January 9, 2002) ("Amendment No. 1"). Amendment No. 1 supercedes and replaces the original 19b-4 filing in its entirety.

⁴ See letter from Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, to Florence Harmon, Senior Special Counsel, Division, Commission (February 13, 2002) ("Amendment No. 2"). In Amendment No. 2, the Exchange corrected various typographical errors, elaborated on the augmentation of its management reporting system, clarified the procedures by which an issuer would be considered under the Alternative Listing Standards, and added inadvertently omitted rule language.

⁵ Section 101 of the *Amex Company Guide* provides that factors other than the specified guidelines will be considered in evaluating listing eligibility, and an application may be approved even if the company does not meet all of the numerical guidelines.

⁶ This change would also apply to references to continued listing guidelines.

alternative quantitative listing standards; (b) a Committee panel makes an affirmative finding that there are mitigating factors that warrant listing pursuant to the alternative standards; and (c) the company issues a press release disclosing the fact that it had been approved pursuant to the alternative listing standards. Committee panels would not have authority to approve companies below the "floor" established by the new alternative quantitative listing standards specified below:⁷

Alternative A

Stockholders' equity of at least \$3,000,000
Pre-tax income of at least \$500,000 in its last fiscal year, or in two of its last three fiscal years
Aggregate Market Value of Publicly Held Shares—\$2,000,000
Distribution—400,000 shares publicly held and 600 public shareholders, or
800,000 shares publicly held and 300 public shareholders
Price—Minimum market price of \$2 per share

Alternative B

Stockholders' equity of at least \$3,000,000.
Aggregate Market Value of Publicly Held Shares—\$10,000,000
Distribution—400,000 shares publicly held and 600 public shareholders, or
800,000 shares publicly held and 300 public shareholders
History of Operations—Two years
Price—Minimum market price of \$2 per share

Continued Listing Process

To strengthen the Exchange's continued listing program, the Exchange is proposing to adopt revised procedures that would impose definitive time limits with respect to how long a company that has fallen below the continued listing standards can remain listed pending corrective action.⁸ The new procedures would provide as follows:

- A company that falls out of compliance with the continued listing standards will be given an opportunity to submit a business plan to the Listing

Qualifications Department detailing the action it proposes to take to bring it into compliance with continued listing standards within 18 months.

- If the Listing Qualifications Department management determines that the company has made a reasonable demonstration of an ability to regain compliance within 18 months, the plan will be accepted. The company would be able to continue its listing for up to 18 months if it issues a press release indicating that it is not in compliance with the continued listing standard and that it has been granted an 18 month extension.⁹

- The Listing Qualifications Department will closely monitor the company's compliance with the plan during the 18-month extension period, and the company will be subject to delisting if it does not show progress consistent with its business plan, if further deterioration occurs or based on public interest concerns.

- At the conclusion of the 18-month extension period, the staff will initiate delisting proceedings if the company has not regained compliance with the continued listing standards.¹⁰

- All staff delisting proceedings can be appealed to a Committee panel; however, the Committee panel will not have the authority to continue the company's listing unless it determines that the company has regained compliance with the continued listing standards.¹¹

Other Changes

The Amex is also proposing to adopt certain new initial and continued listing standards that are necessary and appropriate for the Exchange to administer its listing qualifications function in a more fair, efficient and transparent manner.

With respect to initial listing, the Amex is proposing to adopt two new sets of standards—a "market capitalization" standard and a

"currently listed securities" standard—in addition to the two currently existing standards. Under the "market capitalization" standard, a company would be eligible for initial listing if it meets the following standards:

Shareholders' Equity—\$4 million
Total Value of Market Capitalization—\$50 million
Market Value of Public Float—\$15 million
Public Float/Public Stockholders—\$500,000/800 or \$1 million/400 or \$500,000/400 (plus average daily volume of 2,000 shares).

The "currently listed securities" standard would provide that a company which is currently listed on the New York Stock Exchange or Nasdaq National Market and fully satisfies the Amex continued listing standards will qualify for initial listing.

With respect to continued listing, the Amex is proposing to revise Section 1003(a)(iii) of the *Company Guide* to provide that a company will continue to qualify for listing, even if it has sustained losses from continuing operations and/or net losses in its five most recent fiscal years, if it has stockholders' equity of at least \$6 million. Currently, a company that has sustained such losses is subject to delisting regardless of its stockholders' equity. The Amex believes that this change is appropriate, in that a company which is able to maintain significant shareholders' equity should be able to continue its listing notwithstanding five or more years of losses. The Amex notes that many development stage and research oriented companies often take a number of years to reach profitability. Although not all these companies become profitable, the ability to raise capital, as evidenced by significant shareholders' equity, is often an indication of a company's strength.

In addition, the Amex is proposing to modify the market value of public float continued listing standard contained in Section 1003(b)(i)(C) of the *Company Guide*, to provide that a company will not be considered below continued listing standards unless the aggregate market value of its shares publicly held is less than \$1,000,000 for more than ninety consecutive days. Currently, a literal reading of the provision would result in a listed company technically falling below the requirement if the market value of its public float fell below \$1,000,000 for even one day. In view of the volatility of the markets, the Amex believes it is appropriate to evaluate this listing standard over a period of time.

⁷ See proposed section 1203(c) of the Amex *Company Guide*.

⁸ The Exchange's internal procedures now require analysts to review all company filings within 30 days of issuance to evaluate the issuer's compliance with the Exchange's continued listing standards. Telephone discussion between Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, and Florence E. Harmon, Senior Special Counsel, Division, Commission (February 12, 2002).

⁹ If a company submits a plan that is not accepted, the staff would initiate delisting proceedings, which the company could appeal to the Committee panel. The Committee panel would have the authority to direct the Listing Qualifications Department management to accept the plan only if it finds that the plan does make a reasonable demonstration of an ability to regain compliance with the continued listing standards within 18 months.

¹⁰ The Exchange does not view the one-year probation period as an extension of the 18-month plan period. Telephone discussion between Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, and Florence E. Harmon, Senior Special Counsel, Division, Commission (February 14, 2002).

¹¹ Adverse Committee panel decisions could be appealed by the company to the full Committee whose decisions are subject to a call for review by the Amex Board of Governors.

Appeal Procedures Background

In late 2000, in connection with the Nasdaq demutualization, the Amex reintegrated the Listing Qualifications function. Prior to the reintegration, the Amex adopted new procedures applicable to the review of initial listing determinations, modeled on existing Nasdaq listing and delisting procedures.¹² These procedures have been in effect since November 2000. The Amex believes that they have provided increased transparency and clarity to listing applicants with respect to the Amex decision-making process. For example, in the case of initial listings, the staff no longer determines which applications the Committee reviews. Instead, an issuer whose application is denied by the staff has the right to appeal the denial to a subcommittee of the Committee.

According to the Amex, experience with the procedures indicates, however, that changes to certain elements of the procedures might enhance the process in light of the Amex's business objectives and regulatory responsibilities. The Amex is proposing revisions to the delisting hearing procedures to bring them more in line with the listing hearing procedures.¹³

As noted above, in late 2000, the Amex adopted new procedures with respect to the review of staff denials of initial listing applications. These procedures, which are contained in Part 12 of the *Company Guide*, provide an issuer whose listing application has been denied by the staff the right to appeal the staff decision to a subcommittee of the Committee composed of at least two Committee members. A subcommittee's decision to approve an applicant is dispositive, and the issuer will be listed upon such approval by the subcommittee (unless the decision specifies otherwise). An issuer can appeal an adverse subcommittee decision to the Amex Adjudicatory Council ("Adjudicatory Council") within 15 days of the decision. The Adjudicatory Council also

has the right to call any subcommittee decision for review within 45 days of the decision.

The new process has operated relatively smoothly, and has, as noted above, provided increased transparency to listing applicants. The experience of the Committee and Amex staff with the new procedures has, however, revealed certain inconsistencies. For example, the Adjudicatory Council's right to call for review listing decisions by a subcommittee of the Committee could be awkward in the case of an issuer whose securities have already been listed and begun trading. In theory, because the Adjudicatory Council has up to 45 days to call a decision for review, it would be possible for the Adjudicatory Council to reverse a subcommittee decision and deny a listing application in the case of a company whose securities had already been trading for some time. In addition, the Adjudicatory Council's responsibility to review appeals and exercise its call for review authority is burdensome in combination with its other responsibilities to the Board.

The procedures now applicable to the review of staff delisting determinations, which are contained in Section 1010 of the Amex *Company Guide*, are different and do not parallel the initial listing appeal procedures. The Committee hears appeals of staff delisting determinations, but the Committee does not have dispositive authority and acts solely as a fact-finding body for the Board. The Committee's recommendations and findings are forwarded to the Adjudicatory Council, to which the Board has delegated its authority to make delisting determinations. Because the Committee lacks dispositive authority, and transcripts and other relevant information must be forwarded to the Adjudicatory Council for review and decision-making, the delisting decision process can take a significant amount of time to complete. Throughout the process—until the final decision by the Adjudicatory Council—the securities in question will generally continue trading on the Exchange unless a disclosure issue or public interest concern warrants a trading halt.¹⁴

Proposed Changes

The proposed changes make adjustments to the procedures

applicable to the review of initial listing determinations and revise the procedures applicable to the review of delisting determinations to conform to them to initial listing procedures.

The proposal provides issuers with the right to appeal a staff determination to deny initial or continued listing to a panel of at least three members of the Committee. The issuer has the right to appeal an adverse panel's decision to the full Committee.

A panel decision will be dispositive with respect to both listing and delisting decisions. In the case of an appeal of an initial listing denial, this means that if the panel determines to "reverse" the staff determination, the issuer's securities will be approved for listing and listed at the convenience of the issuer. In the case of an appeal of a delisting determination, the delisting action will be stayed pending the outcome of the panel's review.

Following a panel determination to delist, trading in the company's securities will be suspended. If the company does not appeal the panel's decision to the full committee, its securities will be delisted following the expiration of the appeal period, in accordance with Section 12 of the Act¹⁵ and the rules promulgated thereunder. If the company does appeal to the full Committee, the suspension will continue until there is a final decision (either by the full Committee or the Board based on its "call for review"), in which case the securities will be either delisted or the suspension will be lifted, depending on the outcome.

With respect to an initial listing application in which the company appeals an adverse panel decision to the full Committee, if the Committee "reverses" the panel decision and approves the listing, in order to avoid potential market disruptions and investor confusion, the securities will not begin trading unless and until the Board has declined to call such decision for review.¹⁶

While issuers will be able to request either an oral or written hearing at the panel level, appeals to the full Committee will be based on the written record only unless the Committee determines, in its sole discretion, to hold a hearing. All decisions of the full Committee will also be subject to a discretionary "call for review" by the Amex Board of Governors.¹⁷ If the Board

¹² See Securities Exchange Act Release No. 43308 (September 20, 2000), 65 FR 58136 (September 27, 2000) (SR-Amex-00-12).

¹³ In this regard, in February 2001 Amex Chairman Salvatore F. Sodano established the Chairman's Advisory Council on Listing Qualifications ("Advisory Council"). The Advisory Council, which was composed of prominent securities industry professionals, was charged with conducting a review of the Amex procedures and policies relating to the equity listing functions. The Advisory Council's primary goal was to conduct a review of and make recommendations with respect to the process for appealing initial listing and delisting decisions. In this regard, the Advisory Council, in consultation with Amex senior management, developed the proposal described herein.

¹⁴ The company will typically not be delisted until ten days after the Adjudicatory Council's decision, because Exchange Act Rule 12d2-2 requires the Exchange to file an application with the SEC to delist a security, which application becomes effective ten days after filing with the SEC. 17 CFR 240.12d2-2.

¹⁵ 15 U.S.C. 78l.

¹⁶ If the Board were to call such a Committee decision for review, the securities would be listed only if the Board affirmed the Committee decision.

¹⁷ The Amex notes that an issuer may appeal to the SEC in accordance with Section 19 of the Exchange Act following final action by the

decision provides that the issuer's security or securities should be delisted, the Exchange will suspend trading in such security or securities as soon as practicable, if it has not already done so pursuant to Section 1204(d), and an application will be submitted by the Exchange staff to the Commission to strike the security or securities from listing and registration in accordance with Section 12 of the Act¹⁸ and the rules promulgated thereunder. In the event that the Board was to "reverse" a full Committee decision, the issuer's listing status would be adjusted accordingly. Because panel decisions will be dispositive, as noted above, if trading in an issuer's securities were suspended pursuant to an adverse panel decision, the suspension would be lifted, as noted above, if the final decision (either by the Amex Board or the full Committee if the Board does not exercise its "call for review") reverses the panel's decision. Similarly, in the case of an initial listing application, the issuer's securities will be listed if the final decision reverses an adverse panel decision.

The proposal does not contemplate changes to the administration of the hearing process, and the Hearings staff of the Listing Qualifications Department will continue to administer the process. Amex staff attorneys will, as they do now, provide independent counsel to the panels and the full Committee with respect to relevant procedures, precedents and standards.¹⁹

Additionally, in order to recoup the costs associated with processing and conducting hearings in connections with issuer requests for review, the Amex will continue to charge a fee of \$2,500 for an oral hearing and \$1,500 for a written review. Thus an issuer requesting an oral hearing before a panel will be assessed a fee of \$2,500, while an issuer requesting a written review by a panel will be assessed a fee of \$1,500. Should the issuer appeal the panel's decision to the full Committee, it will be assessed an additional fee of \$2,500. Issuers will not be charged fees in connection with a "call for review" by the Board of Governors.

The Amex believes that these proposed changes will provide appropriate due process to issuers, as well as increased efficiency to the listing and delisting processes in a number of respects:

- The Committee, which has extensive experience and expertise in evaluating listing issues, will be given greater responsibility with respect to listing determinations, while the Board, through its "call for review" rights, will retain ultimate oversight of the listing and delisting process as well as of listing matters in general.
- The delays currently inherent in the delisting process should be substantially reduced.
- The potentially disruptive impact of a "call for review" will be reduced since only decisions of the full Committee will be subject to "call for review," as opposed to all subcommittee decisions, as is currently the case.
- The Committee will now follow the same review process for both listing and delisting determinations, rather than different processes for each.
- The burdens on the Adjudicatory Council will be reduced by the transfer to the Committee of the Council's existing areas of responsibility with respect to the listing qualifications process.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,²⁰ in general, and Section 6(b)(5) of the Act,²¹ in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. More specifically, the Exchange believes that the proposed rule change will enable the Exchange to administer its listing program in a more fair, efficient and transparent manner that reflects the rapidly evolving changes in the economy and capital markets. Additionally, the Exchange believes that with respect to companies listed pursuant to the proposed Alternative Listing Standards, investors will derive the benefits inherent in an Amex listing of comprehensive regulation, transparent price discovery

and trade reporting to facilitate best execution, and increased depth and liquidity resulting from the confluence of order flow found in an auction market environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No.

Exchange, which would be either (a) the expiration of the Board of Governors' "call for review" period following an adverse decision by the full committee, or (b) an adverse decision by the Board of Governors. 15 U.S.C. 78s.

¹⁸ 15 U.S.C. 78l.

¹⁹ At the Exchange's request, the Commission replaced the word "guidelines" with the word "standards." Telephone discussion between Claudia Crowley, Assistant General Counsel—Listing Qualifications, Amex, and Christopher B. Stone, Attorney Advisor, Division, Commission (January 31, 2002).

²⁰ 15 U.S.C. 78f(b).

²¹ 15 U.S.C. 78f(b)(5).

SR-AMEX-2001-47 and should be submitted by March 15, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-4231 Filed 2-21-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45452; File No. SR-NYSE-2001-49]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amending New York Stock Exchange Rule 902 (Off-Hours Trading Orders)

February 15, 2002.

On December 11, 2001, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change amending NYSE Rule 902, Off-Hours Trading Orders, to permit the submission of member to member coupled orders in Crossing Session I in order to close out error positions.

The proposed rule change was published for comment in the **Federal Register** on January 14, 2002.³ The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,⁴ and, in particular, the requirements of section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act.⁶ Section 6(b)(5)⁷ requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable

principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change promotes the objectives of this section of the Act. Specifically, the proposed rule change allows the submission of member to member coupled orders during Crossing Session I, when they normally would not be permitted, for the limited purpose of closing out error positions.⁸ The Commission believes that this limited exception will foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system by removing an impediment to closing out error positions. Moreover, the Commission believes that it is generally in the public interest to facilitate the closing out of error positions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-NYSE-2001-49) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-4233 Filed 2-21-02; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45442; File No. SR-Phlx-2001-115]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Volume Thresholds for the Options Specialist Shortfall Fee and Corresponding Shortfall Credit

February 13, 2002.

I. Introduction

On December 20, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its schedule of dues, fees and charges to increase the requisite volume thresholds associated with the options specialist 10 percent deficit fee ("shortfall fee") and corresponding options specialist 10 percent shortfall credit ("shortfall credit"). The Exchange also proposed to amend the definition of a Top 120 Option, clarify who is eligible to receive the shortfall credit and make other minor, technical amendments to its fee schedule. On January 15, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.³

The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on January 28, 2002.⁴ The comment period was for fifteen days and expired on February 12, 2002. No comments were received regarding the proposed rule change, as amended. This order approves the proposed rule change, as amended, on an accelerated basis.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Cynthia K. Hoekstra, Counsel, Phlx, to Kelly Riley, Senior Special Counsel, Division of Market Regulation, Commission, dated January 14, 2002 ("Amendment No. 1"). In Amendment No. 1, the Exchange expanded the statutory basis of the proposed rule change to include section 6(b)(4) of the Act. In addition, the Exchange requested that the proposed rule change be filed pursuant to section 19(b)(2), rather than section 19(b)(3)(A)(ii), of the Act. Finally, the Exchange requested that the proposed fee be approved as of January 2, 2002, and that the proposed rule change be approved on an accelerated basis in order to permit the Exchange to invoice its January fees in a timely manner by the middle of February.

⁴ See Securities Exchange Act Release No. 45322 (January 22, 2002), 67 FR 3927.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 45251 (January 8, 2002), 67 FR 1793.

⁴ In approving this proposed rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

⁸ The NYSE confirmed that the new exception to NYSE Rule 902(a)(ii) (embodied in proposed NYSE Rule 902(a)(ii)(C)) is subject to NYSE Rule 906, Impact of Trading Halts on Off-Hours Trading, and, therefore, the proposed exception does not permit trading of a security that is subject to a trading halt under NYSE Rule 906 (a) or (b). Telephone discussion between Donald Siemer, Director Rule Development, Market Surveillance Division, NYSE, and Christopher B. Stone, Attorney Advisor, Division of Market Regulation, Commission (January 7, 2002).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

II. Description of the Proposed Rule Change

The Exchange proposes to increase the volume thresholds related to the options specialist shortfall fee⁵ and corresponding shortfall credit.⁶ Currently, the Exchange imposes a fee of \$0.35 per contract to be paid by the specialist trading any Top 120 Option if at least 10 percent of the total national monthly contract volume ("total volume") for such Top 120 Option is not affected on the Exchange in that month.⁷ The Exchange proposes to increase the requisite volume thresholds by 1 percent per quarter over each quarter of 2002. Thus, the minimum trading volume requirements for total volume in the Top 120 Options would be in excess of: 11 percent for the period January through March 2002; 12 percent for the period April through June 2002; 13 percent for the period July through September 2002; and 14 percent for the period October through December 2002.

In addition, the Exchange permits a corresponding shortfall credit of \$0.35 per contract to be earned toward previously imposed shortfall fee for each contract traded in excess of the current 10 percent volume threshold during a subsequent monthly time period.⁸ The specialist may apply for the shortfall credit when trading in an issue falls below the 10 percent volume threshold in one month and exceeds the threshold in a subsequent month. The Exchange also proposes to amend the related shortfall credit to correspond with the volume thresholds described above. Therefore, in order to qualify for the shortfall credit, specialists/specialist units must have total volume in the Top

120 Options (that otherwise qualify based on the 10 million contract volume requirement) in excess of: 11 percent for the period January through March 2002; 12 percent for the period April through June 2002; 13 percent for the period July through September 2002; and 14 percent for the period October through December 2002.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6 of the Act⁹ and the rules and regulations thereunder applicable to a national securities exchanges.¹⁰ The Commission finds specifically that the proposed rule change is consistent with section 6(b)(4) of the Act,¹¹ which requires, among other things, that the rules of a national securities exchange be designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Further, the Commission believes that the proposed fee may enhance inter-market competition by encouraging Phlx specialists to compete for order flow. In addition, Phlx specialists' efforts to maintain the requisite volume thresholds as outlined above may contribute to deeper, more liquid markets and narrower spreads.

The Exchange proposed to implement the proposed fees as of January 2, 2002. The Commission believes that it is reasonable for the Phlx to implement these fees retroactively to coincide with the New Year. Further, the Commission notes that it did not receive any comments on the proposed retroactive application of the fee and credit.

Furthermore, the Commission finds good cause for approving the proposed rule change and Amendment No. 1 prior to the thirtieth day after notice of the publication in the **Federal Register**. Accelerated approval will permit the Exchange to invoice its January fees in a timely manner by the middle of February. In addition, the Commission received no comments on the proposed rule change and Amendment No. 1. Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act¹² to approve the proposed rule change, as amended, on an accelerated basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-Phlx-2001-1115), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-4232 Filed 2-21-02; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-244]

WTO Dispute Settlement Proceeding Brought by Japan Regarding the Sunset Review of the Antidumping Duty Order Imposed by the United States on Corrosion-Resistant Carbon Steel Flat Products From Japan

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on January 30, 2002, the United States received from Japan a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) regarding certain aspects of the final determinations of both the United States Department of Commerce (DOC) and the United States International Trade Commission (ITC) in the full sunset review of Corrosion-Resistant Carbon Steel Flat Products from Japan issued on August 2, 2000, and November 21, 2000, respectively. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 12, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to japancrsteel@ustr.gov, or (ii) by mail, to Sandy McKinzy, Attn: Japan Corrosion-

⁵ See Securities Exchange Act Release No. 43201 (August 23, 2000), 65 FR 52465 (August 29, 2000) (SR-Phlx-00-71).

⁶ See Securities Exchange Act Release No. 44892 (October 1, 2001), 66 FR 51487 (October 9, 2001) (SR-Phlx-2001-83).

⁷ The Exchange states that at present a Top 120 Option is defined as one of the 120 most actively traded equity options in terms of the total number of contracts in that option that were traded nationally for a specified month based on volume reflected by The Options Clearing Corporation ("OCC") and which was listed on the Exchange after January 1, 1997. The Exchange proposes to amend the definition of a Top 120 Option to include the top 120 most actively traded equity options in terms of the total number of contracts in that option that were traded nationally for a specified month based in volume reflected by OCC. The Phlx intends to continue to divide by two the total volume reported by OCC, which reflects both sides of an executed transaction, thus avoiding one trade being counted twice for purposes of determining overall volume. See Securities Exchange Act Release No. 43201 (August 23, 2000), 65 FR 52465 (August 29, 2000) (SR-Phlx-00-71).

⁸ To be eligible for the shortfall credit, the option must trade in excess of 10 million contracts nationwide during the month in which the deficit occurs.

⁹ 15 U.S.C. 78f.

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78s(b)(2).

¹³ *Id.*

¹⁴ 17 CFR 200.30-3(a)((12).

Resistant Steel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, with a confirmation copy sent electronically or by fax to (202) 395-3640.

FOR FURTHER INFORMATION CONTACT:

Katherine J. Mueller, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-0317.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (DSU). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by Japan

Japan alleges that the DOC and ITC final determinations in the full sunset review of Corrosion-Resistant Carbon Steel Flat Products from Japan issued on August 2, 2002, and November 21, 2000, respectively, are erroneous and based on WTO-inconsistent provisions of the Tariff Act of 1930 and related regulations. Japan points in particular to:

- the automatic initiation of the sunset review without sufficient evidence;
- the likelihood standard used in determining whether to revoke or terminate an order, including the "good cause" provision determining whether the DOC may consider other relevant factors;
- the use of original dumping margins without careful examination of dumping and injury;
- the determination of the likelihood of continued dumping on an order-wide basis rather than a company-specific basis;
- the treatment as "zero" of negative dumping margins in the average-to-average or transaction-to-transaction methodologies in calculating dumping margins in sunset reviews;

- the application of a *de minimis* standard of 0.5 percent in sunset reviews;

• the cumulative assessment of the volume and the effect of subject imports "from all countries" where such imports are likely to have a discernible adverse impact on the domestic industry.

Japan contends that these aspects of the final determinations are inconsistent with Articles VI and X of GATT 1994; Articles 2, 3, 5, 6 (including Annex II), 11, 12, and 18.4 of the Antidumping Agreement; and Article XVI:4 of the Agreement establishing the World Trade Organization.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English. Commenters should send either one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above, or transmit a copy electronically to japancrsteel@ustr.gov. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to (202) 395-3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters "BC", and the file name of the public version should begin with the characters "P". The "P" or "BC" should be followed by the name of the commenter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential

in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy, or appropriately name the electronic file submitted containing such material; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-244, Japan Corrosion-Resistant Steel Dispute) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Christine Bliss,

Acting Assistant United States Trade Representative, for Monitoring and Enforcement.

[FR Doc. 02-4214 Filed 2-21-02; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement/ Section 4(f) Evaluation: Prince George's County, Maryland

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS)/ Section 4(f) Evaluation will be prepared for a proposed transportation project in Prince George's County, Maryland.

FOR FURTHER INFORMATION CONTACT: Ms. Caryn Brookman, Environmental

Protection Specialist, Federal Highway Administration, The Rotunda—Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (410) 962–4342, Extension 130.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, will prepare an EIS/Section 4(f) Evaluation on the proposed alternates to improve US 1 and MD 201 in Prince George's County, Maryland. The Environmental Protection Agency and the U.S. Army Corps of Engineers have been invited to participate as cooperating agencies.

Continued growth in population and development is creating traffic congestion along existing US 1 and MD 201. The local roadway network will soon reach capacity and will be unable to accommodate future travel demand. Improvements within the corridor will address safety problems and accommodate existing and projected travel demand.

The alternatives under consideration include (1) taking no action; (2) using multi-modal strategies and intersection improvements without the addition of through travel lanes or new roadways; (3) widening US 1 from Sunnyside Avenue to MD 198 and improving intersections on US 1 and MD 201; (4) widening MD 201 from Sunnyside Avenue to Odell Road, providing a new roadway on a new alignment from MD 201 at Odell Road to Ritz Way/Virginia Manor Road, realigning and widening Virginia Manor Road and Van Dusen Road, and improving major intersections on MD 201; (5) widening MD 201 from Sunnyside Avenue to Muirkirk Road, extending MD 201 from Muirkirk Road to Contee Road, and improving major intersections on MD 201 and US 1; (6) widening US 1 from Sunnyside Avenue to MD 198, widening MD 201 from Sunnyside Avenue to Muirkirk Road, extending MD 201 from Muirkirk Road to Contee Road, and widening and improving cross streets (Sunnyside Avenue, Powder Mill Road, Muirkirk Road, and Contee Road) from MD 201 to US 1; and (7) widening US 1 from Sunnyside Avenue to MD 198, widening MD 201 from Sunnyside Avenue to Odell Road, providing a new roadway from MD 201 to Ritz Way/Virginia Manor Road, realigning and widening Virginia Manor Road and Van Dusen Road from Muirkirk to MD 198, and extending MD 201 from Muirkirk Road to Contee Road.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, private organizations, and to

citizens who have previously expressed or are known to have an interest in this project. A public hearing is tentatively scheduled for Fall of 2002. Public notice will be given of the time and place of this hearing.

The draft EIS/Section 4(f) Evaluation will be available for public and agency review and comment prior to the public hearing. Scoping meetings for the public, agencies, and for the Metropolitan Washington Council of Governments have been conducted throughout the course of the project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning these proposed actions and the EIS/Section 4(f) Evaluation should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program).

Daniel W. Johnson,

Environmental Program Manager, Baltimore, Maryland.

[FR Doc. 02–4230 Filed 2–21–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2002–1617]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to revise the following currently approved information collection: Customer Service Surveys.

DATES: Comments must be submitted before April 23, 2002.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590. All

comments received will be available for examination at the above address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Yvonne Griffin, Office of Budget and Policy, (202) 366–1727.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Customer Service Surveys (OMB Number: 2132–0559).

Background: Executive Order 12862, “Setting Customer Service Standards,” requires FTA to identify its customers and determine what they think about FTA’s service. The surveys covered in this request for a blanket clearance will provide FTA with a means to gather data directly from its customers. The information obtained from the surveys will be used to assess the kind and quality of services customers want and their level of satisfaction with existing services. The surveys will be limited to data collection that solicit voluntary opinions and will not involve information that is required by regulations.

Respondents: State and local government, public transit operators, Metropolitan Planning Organizations (MPOs), transit constituents, transit manufacturers, and private transit operators.

Estimated Annual Burden on Respondents: Varies according to survey.

Estimated Total Annual Burden: 2,035 hours.

Frequency: Annual.

Issued: February 19, 2002.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

[FR Doc. 02–4283 Filed 2–21–02; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[STB Docket No. MC-F-20988]**

Holland America Line—Westours, Inc.—Control—Westours Motor Coaches, Inc., Evergreen Trails, Inc., Westmark Hotels of Canada Ltd., and Horizon Coach Lines Ltd.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Holland America Line—Westours, Inc. (HAL), a noncarrier holding company that controls three motor passenger carrier subsidiaries, Westours Motor Coaches, Inc. (WMC), Evergreen Trails, Inc. (Evergreen), and Westmark Hotels of Canada Ltd. (Westmark),¹ has filed an application under 49 U.S.C. 14303 for acquisition of control by HAL, through its Westmark subsidiary, of another Federally regulated passenger carrier, Horizon Coach Lines Ltd. (Horizon).² Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, as well as the acquisition of control of Horizon by Westmark, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due April 8, 2002. Applicant may reply by April 23, 2002. If no comments are received by April 8, 2002, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20988 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of comments to applicant's representative: Jeremy Kahn, Kahn & Kahn, 1730 Rhode Island Ave., NW., Suite 810, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1642. [TDD for the hearing impaired: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: HAL is a noncarrier that currently controls three regulated passenger carrier subsidiaries, WMC (Docket No. MC-118832), Evergreen (Docket No. MC-107638), and Westmark (Docket No. MC-405618).

¹ HAL's control of the 3 carriers was approved by the Board in *Holland America Line—Westours, Inc.—Control—Westmark Hotels of Canada Ltd.*, STB Docket No. MC-F-20985 (STB served Oct. 10, 2001).

² Horizon holds operating authority in MC-144339.

Under the proposed transaction, HAL is seeking to acquire control, through its Westmark subsidiary, of another regulated passenger carrier, Horizon.³ Westmark is acquiring the stock of Horizon.⁴ HAL states that it focuses its passenger carrier services in the Pacific Northwest, mainly in the states of Washington and Alaska and in adjacent Canadian areas, including the province of British Columbia and the Yukon Territory. Horizon's operations are mainly concentrated in Canada.

HAL has submitted information, as required by 49 CFR 1182.2(a)(7), to demonstrate that the proposed acquisition of control is consistent with the public interest under 49 U.S.C. 14303(b). HAL states that the proposed transaction will have no impact on the adequacy of transportation services available to the public, that the operations of the carriers involved will remain unchanged, that there are no fixed charges associated with the proposed transaction, and that no carrier employees will be adversely affected by the transaction. In addition, HAL has submitted all of the other statements and certifications required by 49 CFR 1182.2. Additional information, including a copy of the application, may be obtained from the applicant's representative.

Under 49 U.S.C. 14303, we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

³ The Board recently granted interim approval to HAL to acquire control, through its Westmark subsidiary, of Horizon. *Holland America Line—Westours, Inc.—Control—Westours Coaches, Inc., Evergreen Trails, Inc., Westmark Hotels of Canada Ltd., and Horizon Coach Lines, Ltd.*, STB Docket No. MC-F-20988 TA (STB served Feb. 1, 2002).

⁴ Accordingly, Westmark will also control Horizon. Although applicant did not specifically request such relief, we are tentatively approving the acquisition of control of Horizon by Westmark.

Board decisions and notices are available on our website at www.stb.dot.gov.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control of Horizon by HAL and the acquisition of control of Horizon by Westmark are approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on April 8, 2002, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: February 14, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,
Secretary.

[FR Doc. 02-4139 Filed 2-21-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[STB Finance Docket No. 34170]**

Utah Transit Authority—Acquisition Exemption—Certain Assets of Union Pacific Railroad Company

The Utah Transit Authority (UTA), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire from the Union Pacific Railroad Company (UP) several railroad rights-of-way and related improvements, totaling approximately 62.77 miles, in Davis, Weber, Salt Lake and Utah Counties, UT. UTA proposes to acquire UP's right, title and interest in the following rail lines: (1) The Salt Lake Subdivision between approximately milepost 754.31 in Bountiful and approximately milepost 778.00 in Ogden; (2) the Provo Industrial Lead between approximately milepost P-775.23 in Point of Mountain and approximately milepost P-762.00 in Hardy; (3) the Sharp Subdivision between approximately milepost P-

752.41 in Provo and approximately milepost P-757.25 in Lakota Junction; (4) the Tintic Industrial Lead between approximately milepost 0.00 in Springville and approximately milepost 13.06 in Payson; (5) the Sugarhouse Spur between approximately milepost 0.00 and approximately milepost 2.74 in Salt Lake City; and (6) the Bingham Industrial Lead between approximately milepost 6.60 in Bagley and approximately milepost 11.81.¹

UTA indicates that it does not intend to conduct freight rail operations on any of the lines, but is acquiring them for possible passenger rail operations. According to UTA, UP will retain an exclusive, perpetual, transferable and irrevocable easement on the lines to conduct freight operations.

Consummation of this transaction is expected to occur on or about May 30, 2002.

If the notice contains false or misleading information, the exemption is void *ab initio*.² Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34170, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, Suite 200, Washington, DC 20036-1221.

¹ UTA also proposes to acquire from UP portions of the width of the following rights-of-way: (1) the Salt Lake Subdivision between approximately milepost 782.48 in Salt Lake City, and approximately milepost 818.05 in Ogden; (2) the Provo Subdivision between approximately milepost 705.71 at Lakota Junction and approximately milepost 729.29; (3) the Provo Subdivision between approximately milepost 729.50 and approximately milepost 745.50 in Salt Lake City; (4) the Sharp Subdivision between approximately milepost P-752.41 in Provo and approximately milepost 750.81; (5) the Sharp Subdivision between approximately milepost P-749.99 in Provo, and approximately milepost 745.82 in Spanish Fork; and (6) the Bingham Industrial Lead between approximately milepost 0.00 in Midvale, and approximately milepost 6.60 at Bagley. UTA asserts that acquisition of these portions of rail rights-of-way is not subject to Board jurisdiction, citing *Sacramento Regional Transit District-Petition For Declaratory Order Regarding Carrier Status*, STB Finance Docket No. 33796 (STB served July 5, 2000); and *Southern Pacific Transportation Company—Abandonment Exemption—Los Angeles County, CA*, 9 I.C.C.2d 385, 390 (1993).

² UTA simultaneously filed a motion to dismiss this proceeding, contending that the Board does not have jurisdiction over this transaction. The motion will be addressed by the Board in a separate decision.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: February 14, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02-4138 Filed 2-21-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 14, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 25, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545-1548.

Revenue Procedure Number: Revenue Procedure 98-55.

Type of Review: Revision.

Title: Late Election Relief for S Corporation.

Description: The IRS will use the information provided by taxpayers under this revenue procedure to determine whether relief should be granted for the relevant late election.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 25,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 25,000 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 02-4228 Filed 2-21-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 25, 2002 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545-1479.

Regulation Project Number: IA-41-93 Final.

Type of Review: Extension.

Title: Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time To File Partnership Return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return.

Description: Under section 1.6081-4, an individual required to file an income tax return is allowed an automatic 4-month extension of time to file if (a) an application is prepared on Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," or in such other manner as may be prescribed by the Internal Revenue Service (IRS), (b) the application is filed on or before the date the return is due; and (c) the application shows the full amount properly estimated as tax.

Respondents: Individuals or households.

Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1 hour.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577,

1111 Constitution Avenue, NW.,
Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt
(202) 395-7860, Office of Management
and Budget, Room 10202, New
Executive Office Building, Washington,
DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.
[FR Doc. 02-4255 Filed 2-21-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 25, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545-1483.

Form Number: IRS Form W-7.

Type of Review: Extension.

Title: Application for IRS Individual Taxpayer Identification Number.

Description: Regulations under Internal Revenue Code (IRC) section 6109 provide for a type of taxpayer identifying number called the "IRS individual taxpayer identification number" (ITIN). Individuals who currently do not have, and are not eligible to obtain, social security numbers can apply for this number on Form W-7. Taxpayers may use this number when required to furnish a taxpayer identifying number under regulations. An ITIN is intended for tax use only.

Respondents: Individuals or households

Estimated Number of Respondents: 500,000.

Estimated Burden Hours Per Respondent:

Learning about the law or the form—13 min.

Preparing the form—29 min,
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Other (Individuals file once to get an ITIN).

Estimated Total Reporting Burden: 525,000 hours.

OMB Number: 1545-1757.

Regulation Project Number: REG-105344-01 NPRM and Temporary.

Type of Review: Extension.

Title: Disclosure of Returns and Return Information by Other Agencies.

Description: In general, under the regulations, the IRS is permitted to authorize agencies with access to returns and return information under section 6103 of the Internal Revenue Code to redisclose returns and return information based on a written request with the Commissioner's approval, to any authorized recipient set forth in Code section 6103, subject to the same conditions and restrictions, and for the purposes, as if the recipient had received the information from the IRS directly.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 11.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 11 hours.

Clearance Officer: George Freeland,
Internal Revenue Service, Room 5577,
1111 Constitution Avenue, NW.,
Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.
[FR Doc. 02-4256 Filed 2-21-02; 8:45 am]

BILLING CODE 4830-01-P

Notices

Federal Register

Vol. 67, No. 36

Friday, February 22, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—State Administrative Expense Fund

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this Notice announces the Food and Nutrition Service's (FNS) intention to request Office of Management and Budget (OMB) review of the information collection related to State administrative expense funds, including the adjustments to be made as a result of the final rule, School Nutrition Programs: Nondiscretionary Technical Amendments published on September 20, 1999.

DATES: To be assured of consideration, comments must be received by April 23, 2002.

ADDRESSES: Send comments and requests for copies of this information collection to: Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 636, Alexandria, Virginia 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

FOR FURTHER INFORMATION CONTACT: Mr. Terry Hallberg at (703) 305-2590.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR Part 235, State Administrative Expense Funds Regulations.

OMB Number: 0584-0067.

Expiration Date: September 30, 2002.

Type of Request: Extension of a currently approved collection.

Abstract: Section 7 of the Child Nutrition Act of 1966 (Pub. L. 89-642), 42 U.S.C. 1776, authorizes the Department to provide Federal funds to State agencies (SAs) for administering the Child Nutrition Programs. Part 235 of 7 CFR, State Administrative Expense Funds (SAE), sets forth procedures and recordkeeping requirements for use by SAs in reporting and maintaining records of their needs and uses of SAE funds. The final rule, School Nutrition Programs: Nondiscretionary Technical Amendments (64 FR 50735, September 20, 1999) amended 7 CFR 235.5(c) by removing the requirement that State agencies submit annual SAE plans and now requires States to only submit substantive changes to approved plans. Therefore, the burden hours associated with the SAE Plan have been reduced. This final rule also eliminated the 10 percent transfer limitation of funds between programs and there is no limitation to the amount a state agency can transfer between programs. Also, the agreement, FCS-74, Federal-State Agreement, is contained in the information collections for 7 CFR part 235.

Estimate of Burden: The reporting burden for this collection of information is estimated at 2052 burden hours. The recordkeeping burden is estimated at 12,922 burden hours, which is comprised of the maintenance of records to document usage of SAE funds.

Estimated Number of Respondents: 88 respondents.

Average Number of Responses per Respondent: 131 responses.

Estimated Total Annual Burden on Respondents: 14,974 burden hours.

Dated: February 14, 2002.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 02-4241 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Idaho Resource Advisory Committee; Caribou-Targhee National Forest, Idaho Falls, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Caribou-Targhee National Forests' Eastern Idaho Resource Advisory Committee will meet Monday, March 11, 2002, in Idaho Falls for a business meeting. The meeting is open to the public.

DATES: The business meeting will be held on March 11, 2002, from 10 a.m. to 3 p.m.

ADDRESSES: The meeting location is the Hampton Inn, 2500 Channing Way, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Jerry Reese, Caribou-Targhee National Forest Supervisor and Designated Federal Officer, at (208) 524-7500.

SUPPLEMENTARY INFORMATION: The business meeting on March 11, 2002, begins at 10 am, at the Hampton Inn, 2500 Channing Way, Idaho Falls, Idaho. Agenda topics will include FACA overview, project application form, project solicitation.

Dated: February 15, 2002.

Jerry B. Reese,

Caribou-Targhee Forest Supervisor.

The Eastern Idaho Resource Advisory Council (RAC) will hold its second meeting March 11, 2002 to finalize the application form and determine how to solicit projects totaling \$70,000. The Eastern Idaho RAC covers those counties in which the Caribou-Targhee National Forest lies. RAC members will formulate recommendations for National Forest Restoration Projects. The recommendations will then be forwarded to the Secretary of

Agriculture or the Designated Federal Officer to start the approval process. The Eastern Idaho RAC is one of five statewide, established with the passage of the Secure Rural Schools and Community Self-Determination Act of 2002. The Act gives counties the option of continuing to receive 25 percent of the revenue generated from activities on National Forests such as timber harvest, grazing, and mining, or electing their share of the average of the three highest 25 percent payments made top the state from 1986 through 1999.

[FR Doc. 02-4316 Filed 2-21-02; 8:45 am]

BILLING CODE 3410-11-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

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

ACTION: Additions to Procurement List.

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

EFFECTIVE DATE: March 25, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603-7740.

SUPPLEMENTARY INFORMATION: On November 9, December 21, 2001 and January 4, 2002 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 56635, 65876 and 67 FR 556) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small

entities other than the small organizations that will furnish the products and services to the Government.

2. The action will not have a severe economic impact on current contractors for the products and services.

3. The action will result in authorizing small entities to furnish the commodities and products and services.

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

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

Products

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Refillable Applicator)/7510-01-338-3317.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Roller Refill Cartridge)/7510-01-350-1810.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Roller Non-Refillable Applicator)/7510-01-390-0717.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Adjustable Tip Applicator)/7520-00-NIB-1524.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Correct-It Mini Dispenser—3 Pack)/7520-00-NIB-1525.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Dry-Lighter 3 Pack—Green, Pink, Yellow)/7520-00-NIB-1526.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Product/NSN: Correct-It Roller Applicator & Refill (Dry-Lighter 3 Pack—Yellow)/7520-00-NIB-1527.

NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

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

Services

Service Type/Location: Food Service Attendant/Air National Guard-Iowa, Des Moines, Iowa.

NPA: Progress Industries, Newton, Iowa.

Contract Activity: Iowa Air National Guard, Des Moines Iowa.

Service Type/Location: Mail and Messenger Service/Department of Housing and Urban Development, Washington, DC.

NPA: Didlake, Inc., Manassas, Virginia.

Contract Activity: Department of Housing & Urban Development.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02-4298 Filed 2-21-02; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

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

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 25, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C

47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

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

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

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C.46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Base Supply Center & HAZMART/Fleet and Industrial Supply Center, Jacksonville (Detachment Naval Station Guantanamo Bay Cuba).

NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.

Contract Activity: Fleet & Industrial Supply Center, Jacksonville, Florida.

Service Type/Location: Food Service/ Pueblo Chemical Depot, Pueblo, Colorado.

NPA: Pueblo Diversified Industries, Inc., Pueblo, CO.

Contract Activity: U.S. Army, Rocky Mountain Arsenal, Commerce City, CO.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–4300 Filed 2–21–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 021902B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Vessel Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0358.

Type of Request: Regular submission.

Burden Hours: 5,350.

Number of Respondents: 7,000.

Average Hours Per Response: 45 minutes to mark vessel identification numbers (15 minutes for each of three locations) and 30 minutes to mark fish trap vessel color codes (10 minutes for each of three locations).

Needs and Uses: Regulations at 50 CFR 622.6 and 640.6 require that all vessels with Federal permits to fish in the Southeast display the vessel's official number and, in some cases, a color code. The markings must be in a specific size at specified locations. The display of the identifying markings aids in fishery law enforcement.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Third-party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–4278 Filed 2–21–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Census Bureau

Current Population Survey (CPS)—Race and Ethnicity Supplement

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Teresa Hicks, Census Bureau, FOB 3, Room 3340, Washington, DC 20233–8400, (301) 457–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the collection of data concerning the Race and Ethnicity Supplement to be conducted in conjunction with the May 2002 CPS. Title 13, United States Code, Section 182, and Title 29, United States Code, Sections 1–9, authorize the collection of the CPS information. The Census Bureau is sponsoring this supplement.

Per Office of Management and Budget mandate, the CPS must revise its collection of race and ethnic data in January 2003. In order for the Bureau of Labor Statistics (BLS) to properly analyze the impact of this revision on the CPS data, a set of overlap statistics showing the effect of this change is necessary. The May supplement will ask the race and ethnicity questions identically to how they will be asked in January 2003. The result will be a complete set of labor force statistics from the CPS that will contain race and ethnicity data captured with both the current and the January 2003 procedures. This dataset will allow the BLS and other users of CPS data to comprehend the impact of the change in

the race and ethnicity questions on statistics derived from the CPS.

II. Method of Collection

The race and ethnicity information will be collected by both personal visit and telephone interviews in conjunction with the regular May CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Number: None.

Form Number: There are no forms. We conduct all interviews on computers.

Type of Review: Regular.

Affected Public: Households.

Estimated Number of Respondents: 57,000.

Estimated Time Per Response: 1.35 minutes.

Estimated Total Annual Burden Hours: 1,283.

Estimated Total Annual Cost: The only cost to respondents is that of their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for the Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Dated: February 19, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–4310 Filed 2–21–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838 and C–122–839]

Correction to Amendment to Preliminary Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada; Amendment to Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of correction to amendment to preliminary determination of sales at less than fair value and amendment to preliminary affirmative countervailing duty determination, preliminary affirmative critical circumstances determination, and alignment of final countervailing duty determination with final antidumping determination.

SUMMARY: The Department of Commerce is issuing a correction to its notice of amendment to preliminary determination in the antidumping duty (AD) investigation and preliminary determination in the countervailing duty (CVD) investigation of certain softwood lumber products from Canada to correct the effective date of the amendment.

EFFECTIVE DATES: May 19, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Riggle at 202–482–0650 or Maria MacKay at 202–482–1775, Office of AD/CVD Enforcement V, and AD/CVD Enforcement VI, respectively, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Correction

On February 11, 2002, the Department of Commerce (“the Department”) published in the **Federal Register** an amendment to preliminary determination of sales at less than fair value and amendment to preliminary affirmative countervailing duty determination in certain softwood lumber from Canada (67 FR 6230). The effective date of the amendment was inadvertently written as February 11, 2002, instead of May 19, 2001, which is the effective date of suspension of liquidation pursuant to the preliminary affirmative countervailing duty determination. See *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada*, 66 FR 43186, 43215. Therefore, we are correcting the effective date for the amendment to be May 19, 2001.

This notice is issued and published pursuant to section 777(i)(1) of the Act.

Dated: February 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4269 Filed 2–21–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Preliminary Determinations of Antidumping Duty Investigations. Certain Cold-Rolled Carbon Steel Flat Products from Argentina (A–357–816), Australia (A–602–804), Belgium (A–423–811), Brazil (A–351–834), the People's Republic of China (A–570–872), France (A–427–822), Germany (A–428–834), India (A–533–826), Japan (A–588–859), Korea (A–580–848), the Netherlands (A–421–810), New Zealand (A–614–803), Russia (A–821–815), South Africa (A–791–814), Spain (A–469–812), Sweden (A–401–807), Taiwan (A–583–839), Thailand (A–549–819), Turkey (A–489–810) and Venezuela (A–307–822)

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) is postponing the preliminary determinations in the antidumping duty investigations of certain cold-rolled carbon steel flat products from Argentina, Australia, Belgium, Brazil, the People's Republic

of China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela from March 7, 2002 until no later than April 26, 2002. These postponements are made pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended.

EFFECTIVE DATES: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

James Terpstra (the Netherlands, Belgium, South Korea and Sweden), at (202) 482-3965, Charles Riggie (Taiwan) at (202) 482-0650, Tom Futtner (Australia and India) at (202) 482-3814, Constance Handley (New Zealand) at (202) 482-0631, Shawn Thompson (Brazil and Spain) at (202) 482-1776, Richard Rimlinger (South Africa and Argentina) at (202) 482-4477, Sally Gannon (Japan) at (202) 482-0162, Maureen Flannery (Thailand) at (202) 482-3020, Abdelali Elouaradia (France and Germany) at (202) 482-1374, Robert James (Turkey) at (202) 482-0649, Robert Bolling (Venezuela) at (202) 482-3434, and Jim Doyle (Russia and the People's Republic of China) at (202) 482-0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Postponement of Due Date for Preliminary Determinations

On October 18, 2001, the Department initiated antidumping duty investigations of imports of certain cold-rolled carbon steel flat products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela. The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. See 66 FR 54198 (October 26, 2001). Currently, the preliminary determinations in these investigations are due on March 7, 2002.

On January 14, 2002, petitioners alleged, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, that critical circumstances exist with respect to imports of certain cold-rolled carbon steel flat products from Argentina, Australia, China, India, the Netherlands, Russia, South Africa, South Korea and Taiwan.

On February 7, 2002, petitioners made a timely request pursuant to 19 CFR 351.205(e) for a 50-day postponement, pursuant to section 733(c)(1)(A) of the Act. Petitioners stated that a postponement of the preliminary determinations is necessary in order to permit a more complete and effective investigation and review of respondents' questionnaire and supplemental questionnaire responses, and accurate preliminary determinations.

Under section 733(c)(1)(A) of the Act, if the petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the administering authority initiated the investigation. Therefore, in accordance with petitioners' request for a postponement, the Department is postponing the preliminary determinations in these investigations until April 26, 2002, which is 190 days from the date on which the Department initiated these investigations.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

February 14, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-4266 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-829]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATES: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

Jarrold Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0189.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR part 351 (April 2000).

Scope of the Investigation

For purposes of this investigation, the term "stainless steel bar" includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this investigation is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for

convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Amended Final Determination

On January 15, 2002, the Department determined that stainless steel bar from Italy 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 Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy*, 67 FR 3155 (January 23, 2002) ("SSB Italy Final Determination"). On January 22, 2002, we received ministerial error allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from Rodacciai S.p.A. ("Rodacciai")

regarding the Department's final margin calculations. Rodacciai requested that we correct the errors and publish a notice of amended final determination in the **Federal Register**, pursuant to 19 CFR 351.224(e). Rodacciai's submission alleges that the Department inadvertently used the "date of sale" variable rather than the "date of shipment" variable when recalculating U.S. credit expenses.

The petitioners in this proceeding did not submit any comments on Rodacciai's ministerial error allegation.

In accordance with section 735(e) of the Act, we have determined that a ministerial error in the calculation of Rodacciai's U.S. credit expenses was

made in our final margin calculations. For a detailed discussion of the above-cited ministerial error allegation and the Department's analysis, *see* Memorandum to Richard W. Moreland, "Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of Stainless Steel Bar from Italy" dated February 14, 2002, which is on file in room B-099 of the main Commerce building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel bar from Italy to correct this ministerial error. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin average percentage
Acciaierie Valbruna Srl/Acciaierie Bolzano S.p.A.	2.50	2.50
Acciaiera Foroni SpA	7.07	7.07
Trafilerie Bedini, Srl	1.70	1.70
Rodacciai S.p.A.	5.89	3.83
Cogne Acciai Speciali Srl	33.00	33.00
All Others	3.81	3.81

* Pursuant to 19 CFR 351.204(d)(3), we have excluded rates calculated for voluntary respondents (*i.e.*, Rodacciai and Trafilerie Bedini, Srl) from the calculation of the all-others rate under section 735(c)(5) of the Act.

** Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero or *de minimis*, or determined entirely on facts available.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of stainless steel bar from Italy, except for subject merchandise produced by Bedini (which has a *de minimis* weighted-average margin). Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or constructed export price, as appropriate, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 14, 2002.

Faryar Shirzad,
Assistant Secretary for Import
Administration.

[FR Doc. 02-4267 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration [C-580-835]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Amended Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.

ACTION: Amendment of Final Results of
Countervailing Duty Administrative
Review.

SUMMARY: On January 15, 2002, the Department of Commerce (the Department) published in the **Federal Register** its final results of the first administrative review of the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea for the period

November 17, 1998, through December 31, 1999 (67 FR 1964). On January 15, 2002, we received a timely filed ministerial error allegation. Based on our analysis of this information, the Department has revised the net subsidy rate for Inchon Iron & Steel Co., Ltd. (Inchon).

EFFECTIVE DATE: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:
Tipten Troidl at 202-482-1767 or Darla Brown at 202-482-2849, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Corrections

On January 15, 2002, the respondent, Inchon, timely filed two ministerial error allegations. First, Inchon alleges that the Department calculated a countervailable benefit on an interest payment for a won-denominated variable rate loan outstanding during the POR by using an incorrect number of days outstanding. Inchon claims that the first ministerial error is the result of a keystroke error in one of the cells of the spreadsheet used to calculate the

number of days outstanding for an interest rate payment. Second, respondent argues that the Department made a ministerial error when it used won-denominated fixed-rate benchmarks to calculate benefits on won-denominated variable-rate loans outstanding during the POR. The petitioner has not commented on these ministerial error allegations.

We find that both alleged errors fulfill the criteria for being a ministerial error. We agree with Inchon that the Department inadvertently miscalculated the benefit attributed to an interest payment for a won-denominated variable rate loan outstanding during the POR. We have addressed this error for the amended final results by correcting the number of days outstanding used in the benefit calculation. We find that it does fulfill the criteria for being a ministerial error. Therefore, we made the appropriate corrections to the loan calculations. *See* February 14, 2002 "Memorandum to Bernard Carreau, Deputy Assistant Secretary for AD/CVD Enforcement II from Melissa G. Skinner, Director, Office Director, AD/CVD Enforcement VI, RE: Ministerial Error Allegation filed by Respondent, Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip from the Republic of Korea."

As a result, the net subsidy rate for the GOK's Direction of Credit program should have been 0.07 percent *ad valorem*.

Amended Final Results of Review

Pursuant to the Department's regulations at 19 CFR 351.224(e), Inchon's amended rate is 2.45 percent *ad valorem*.

The Department will instruct the Customs Service ("Customs") to assess countervailing duties on all appropriate entries on or after November 17, 1998, and on or before December 31, 1999. The Department will issue liquidation instructions directly to Customs. The amended cash deposit requirements are effective for all shipments from Inchon of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This amendment to the final results of the countervailing duty administrative review is in accordance with section 751(a)(1) of the Tariff Act, as amended, (19 U.S.C. 1675(a)(1)), 19 CFR 351.213, and 19 CFR 351.221(b)(5)).

Dated: February 15, 2002.

Faryar Shirzad,

Assistant Secretary for, Import Administration.

[FR Doc. 02-4268 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021502B]

Proposed Information Collection; Comment Request; Northeast Region Dealer Purchase Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kelley McGrath, One Blackburn Drive, Gloucester, MA 01930 (phone 978-281-9307 or e-mail Kelley.McGrath@noaa.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

Federally-permitted dealers in specified fisheries are required to submit information weekly regarding their fish purchases. Other dealers are asked to submit the information on a voluntary basis. A small number of commercial fishermen may also be asked to voluntarily provide information related to the purchase. The information obtained is used by economists, biologists, and managers in the management of the fisheries. NOAA is seeking to renew Paperwork Reduction Act approval for these requirements and to merge similar requirements approved under 0648-

0390 (bluefish) and 0648-0406 (herring).

II. Method of Collection

Depending upon the fishery, dealers submit forms on either a mandatory or voluntary basis. Mandatory respondents must also report via an Interactive Voice Response (IVR) system. Vessel captains maybe interviewed for related information.

III. Data

OMB Number: 0648-0229.

Form Number: NOAA Forms 88-30, 88-142.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 1,427.

Estimated Time Per Response: 2 minutes for a NOAA Form 88-30 or an interview; 4 minutes for an IVR report; and 30 minutes for a NOAA Form 88-142.

Estimated Total Annual Burden Hours: 4,163.

Estimated Total Annual Cost to Public: \$15,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-4274 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D. 021902E]****Proposed Information Collection; Comment Request; Northeast Region Logbook Family of Forms**

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kelley McGrath, One Blackburn Drive, Gloucester, MA 10930 (phone 978-281-9307 or e-mail Kelley.McGrath@noaa.gov).

SUPPLEMENTARY INFORMATION:
 SUPPLEMENTARY INFORMATION:

I. Abstract

Fishing vessels permitted to participate in Federally-permitted fisheries in the Northeast are required to submit logbooks containing catch and effort information about their fishing trips. Participants in the herring and tilefish fisheries are also required to make weekly reports on their catch through an Interactive Voice Response (IVR) system. In addition, permitted vessels that catch halibut are asked to voluntarily provide additional information on the estimated size of the fish and the time of day caught. The information submitted is needed for the management of the fisheries.

This action seeks to both renew Paperwork Reduction Act clearance for this collection and to merge related requirements for bluefish and herring cleared under OMB control numbers 0648-0389 and 0648-0407.

II. Method of Collection

Most information is submitted on paper forms, although electronic means may be arranged. In the herring and tilefish fisheries vessel owners or operators must provide weekly catch information to an IVR system.

III. Data

OMB Number: 0648-0212.
 Form Number: NOAA Forms 88-30, 88-140.

Type of Review: Regular submission.
 Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 5,640.

Estimated Time Per Response: 5 minutes per Fishing Vessel Trip Report page (FVTR); 12.5 minutes per response for the Shellfish Log; 4 minutes for a herring or tilefish report to the IVR system; and 30 seconds for voluntary additional halibut information.

Estimated Total Annual Burden Hours: 6,396.

Estimated Total Annual Cost to Public: \$28,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-4280 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**[I.D. 021502A]****Submission for OMB Review; Comment Request**

The Department of Commerce has submitted to the Office of Management

and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fisheries Finance Program Requirements.

Form Number(s): NOAA Form 88-1.

OMB Approval Number: 0648-0012.

Type of Request: Regular submission.

Burden Hours: 10,000.

Number of Respondents: 1,250.

Average Hours Per Response: 8.

Needs and Uses: NOAA operates a direct loan program to assist in financing certain actions relating to commercial fishing vessels, shoreside fishery facilities, aquaculture operations, and individual fishing quotas. Application information is required to determine eligibility pursuant to 50 CFR Part 253 and to determine the type and amount of assistance requested by the applicant. An annual financial statement is required from recipients to monitor the financial status of the loan.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 14, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02-4273 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D. 021902C]****Mid-Atlantic Fishery Management Council; Meetings**

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Surfclam and Ocean Quahog Committee with the Industry Advisors, Ecosystem Planning Committee, Protected Resources Committee, Executive Committee, and Law Enforcement Committee will hold a public meeting.

DATES: Monday, March 11 to Thursday, March 14, 2002. Monday, March 11, the Surfclam and Ocean Quahog Committee with the Industry Advisors will meet from 2 until 4 p.m. On Tuesday, March 12, the Ecosystem Planning Committee will meet from 8:30 a.m. until 2 p.m. The Protected Resources Committee will meet from 2 until 4 p.m. On Wednesday, March 13, the Executive Committee will meet from 9 until 10 a.m. The Law Enforcement Committee will meet from 10 a.m. until noon. Council will meet from 1 until 5 p.m. On Thursday, March 14, Council will meet from 8:00 a.m. until noon.

ADDRESSES: This meeting will be held at Gurney's Inn, 290 Old Montauk Highway, Montauk, NY, telephone 631-668-2345.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone 302-674-2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

SUPPLEMENTARY INFORMATION: Appropriate Council Committees will: review staff's recommendation regarding adoption of public hearing document for Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan, and approve public hearing document for Amendment 13 adoption by Council; review and discuss recreational and commercial management alternatives, and provide advice to potential research set-aside applicants regarding 2003 cycle; review Bottlenose Dolphin Take Reduction Team meeting results, and address potential impacts on Council fisheries;

review issues and actions from February Council Chairmen's meeting; informally review Fishery Achievement Award nominations, discuss identifying additional violations that warrant permit sanctions (Magnuson-Stevens Act Reauthorization issue), address U.S. Coast Guard crew identification requirements, and address potential of using fishing vessels and crews for homeland security. The Council will: receive and review the Surfclam and Ocean Quahog Committee's recommendation and approve adoption of public hearing document for Amendment 13; receive and review the Monkfish Committee's recommendations and approve establishment of goals and objectives for Amendment 2 to the Joint Monkfish FMP; receive and discuss organizational and committee reports including the New England Council's report regarding possible actions on herring, groundfish, monkfish, red crab, scallops, skates, and whiting.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: February 19, 2002.

Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-4279 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****[I.D. 021902A]****North Pacific Research Board; Notice of Public Meeting**

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

ACTION: Notice of teleconference and meeting.

SUMMARY: The North Pacific Research Board (Board) was created by Congress for the purpose of carrying out marine research activities in the waters off Alaska. The Board will meet by teleconference on March 1st, 2002, from 9 to 11 a.m., Alaska time, and will hold a meeting March 21-22 in Anchorage, AK.

DATES: March 1, 2002 and March 21-22, 2002.

ADDRESSES: 441 W. 5th Avenue, Suite 500, Anchorage, AK.

Staff address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Clarence Pautzke: 907-271-2809.

SUPPLEMENTARY INFORMATION: During the teleconference scheduled for March 1, the Board will consider approving research, demonstration and education projects and procedures for 2002. The Board also will consider approving a grant request for 2002-2003 and a science planning process leading to research in 2003. The meeting is open to the public who may listen in at the conference room of the Exxon Valdez Oilspill Trustees in Suite 500 at 441 West 5th ave, Anchorage, AK.

The full Board will then meet in Anchorage beginning at 8 a.m. on Thursday, March 21, 2002, and ending at noon on Friday, March 22, 2002. The meeting will held in the EVOS conference room at the same address as the teleconference described above. The Board will approve interim budgets and financial and administrative procedures, and a science planning processes leading to research in 2003 and 2004. The Board will also consider giving final approval to several projects using Environmental Improvement and Restoration Funds.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Clarence Pautzke at 907-271-2809 at least 7 working days prior to the meeting date.

Dated: February 19, 2002.

Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-4277 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 020602A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of applications for scientific research permits.

SUMMARY: NMFS has received applications for Endangered Species Act (ESA) scientific research permits from Oregon Department of Fish and Wildlife (ODFW) in Grants Pass, OR and from ODFW in Central Point, OR.

DATES: Comments or requests for a public hearing on either of the new applications must be received no later than 5 p.m. Pacific standard time on March 25, 2002.

ADDRESSES: The applications are available on the Internet at <http://www.nwr.noaa.gov/>. Written comments on the applications should be sent to Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737 (503/230-5400). Comments may also be sent via fax to 503/230-5435. Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Cherelle Blazer, Portland, OR; phone: 503/231-2001; fax: 503/230-5435; e-mail: Cherelle.Blazer@noaa.gov.

SUPPLEMENTARY INFORMATION: The ESA-listed evolutionary significant unit (ESU) Threatened Southern Oregon/Northern California Coasts (SONCC) Coho salmon is covered in this notice.

New Applications Received

ODFW is seeking a 5 year permit (1358) to take juvenile SONCC coho salmon in index and randomly selected sites in the Rogue River basin and in other Oregon coastal basins. The purpose of the study is to monitor the abundance of SONCC coho salmon in accordance with the Oregon Plan for Salmon and Watersheds. The study will benefit SONCC coho salmon by estimating the species abundance and distribution. ODFW proposes to capture (using backpack electrofishing, blocknetting, and dipnetting), handle, and release approximately 1,400 juvenile salmon annually. ODFW also requests indirect mortality of approximately 28 juvenile SONCC coho salmon annually during the study.

ODFW is also seeking a 5 year permit (1359) to take juvenile SONCC coho salmon associated with scientific research to be conducted at 168 sites in the Rogue River basin. This study intends to prioritize restoration efforts at fish passage barriers in the Rogue basin, survey streams to determine the species of fish below and above barriers, and determine the severity of fish passage problems. The research will benefit SONCC coho salmon by characterizing the species' distribution and identifying fish passage improvement projects that will greatly benefit the wild fish populations. ODFW proposes to capture (using backpack electrofishing, blocknetting, and dipnetting), identify, and release approximately 146 juvenile SONCC coho salmon annually. ODFW also requests an annual indirect mortality of approximately 8 juvenile SONCC coho salmon during the study.

Dated: February 19, 2002.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02-4281 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[Docket No. 020122018-2018-01; I.D. 111601B]

National Artificial Reef Plan Revision

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

ACTION: Notice of availability; request for comments.

SUMMARY: The National Artificial Reef Plan of 1985 (National Plan) was originally published as NOAA Technical Memorandum NMFS OF-6 in November 1985. NMFS requests comments on proposed revisions to the National Plan.

DATES: Comments must be received no later than May 23, 2002.

ADDRESSES: Comments on the proposed revisions should be submitted to William L. Price, National Coordinator for Marine Recreational Fisheries Programs, 1315 East West Highway, Suite 14752, Silver Spring, MD 20910. Comments may also be submitted via Fax. Comments submitted via electronic mail will not be accepted. Requests for hard copies of proposed revisions to the National Artificial Reef Plan should be

addressed to C. Michael Bailey, NOAA-Fisheries, Suite 134, 9721 Executive Center Drive North, St. Petersburg, FL, 33702.

FOR FURTHER INFORMATION CONTACT: William L. Price, (301) 713-9504; fax (301) 713-2384.

SUPPLEMENTARY INFORMATION: The National Plan of 1985 was developed by the Secretary of Commerce under direction of the National Fishing Enhancement Act of 1984 (Act). The National Plan, which was designed to be a dynamic working document that would be updated as new information became available, was originally published in November 1985 as NOAA Technical Memorandum NMFS OF-6.

The National Plan provided guidance on various aspects of artificial reef use, including types of construction materials and planning, siting, designing, and managing artificial reefs. The 1985 document was general in scope and provided a framework for regional, state, and local planners to develop more detailed, site-specific artificial reef plans sensitive to highly variable local needs and conditions. Since 1985, extensive research has been conducted shedding new light on issues pertaining to artificial reefs. Accordingly, the NMFS has revised the National Plan. The revision follows the format of the 1985 Plan incorporating changes to original text in key areas. The most significant deviations occur in the section dealing with materials. The revision also addresses several critical issues of national importance which provide the focus for much of the debate regarding man-made reef activities. These include the permit programs, materials criteria, liability, research and evaluation, site location, and the roles of affected federal agencies and the regional fisheries management councils. In addition, one of the main areas of emphasis was to include language to reiterate the importance of man-made structures as a fisheries management tool. New language in the National Plan is consistent with the guidelines and recommendations of the Atlantic, Gulf, and Pacific States Marine Fisheries Commissions and representatives of state artificial reef programs relative to artificial reef development.

Dated: February 14, 2002.

Rebecca Lent,

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

[FR Doc. 02-4275 Filed 2-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Availability of the Draft Environmental Impact Statement for the Proposed Rueter-Hess Reservoir, Parker, CO****AGENCY:** Department of the Army, DoD.**ACTION:** Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (Corps) has prepared a Draft Environmental Impact Statement (DEIS) to analyze the direct, indirect and cumulative effects of constructing and operating the proposed Rueter-Hess Reservoir near the town of Parker, in Douglas County, Colorado. The project proponent is the Parker Water and Sanitation District (District). The basic purpose of the Proposed Action is to provide a safe, adequate and sustainable municipal water supply to the District, which is capable of meeting peak demands within the District's currently zoned boundary for the next 50 years. The construction of the proposed project would result in permanent impacts to 6.7 acres of wetlands and 5 miles of other waters of the United States, and would require a Section 404 permit.

The DEIS was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Corps' regulations for NEPA implementation (33 Code of Federal Regulations (CFR) parts 230 and 325, appendices B and C). The Corps, Omaha District; Regulatory Branch is the lead Federal agency responsible for the DEIS and information contained in the DEIS serves as the basis for a decision regarding issuance of the Section 404 permit. It also provides information for local and state agencies having jurisdictional responsibility for affected resources.

DATES: Written comments on the DEIS will be accepted on or before April 8, 2002. Comments should be submitted to Rodney Schwartz, Corps—Omaha District (address below). Oral and/or written comments may also be presented at the Public Hearing to be held at 7 p.m. on March 12, 2002 at the High Prairie Farm Equestrian Center, 7522 Pinery Parkway South in Parker, Colorado.

ADDRESSES: Copies of the DEIS will be available for review at:

1. Parker Library, 10851 South Crossroad Drive, Parker, CO 80134.
2. Parker Water and Sanitation District, 19801 East Mainstreet, Parker, CO 80138.

3. U.S. Army Corps of Engineers, Denver Regulatory Office, 9307 South Platte Canyon Road, Littleton, CO 80128.

Copies can also be obtained from the Corps' third-party contractor, URS Corporation, attention: Paula Daukas, 8181 East Tufts Avenue, Denver, CO 80237; 303-740-3896; Fax 303-694-3946, paula_daukas@urscorp.com

FOR FURTHER INFORMATION CONTACT:

Rodney Schwartz, Senior Project Manager, U.S. Army Corps of Engineers, Omaha District—Regulatory Branch, 12565 West Center Road, Omaha, Nebraska 68144-3869, Phone: 402-221-4143, Fax: 402-221-4939, rodney.j.schwartz@usace.army.mil.

SUPPLEMENTARY INFORMATION: The purpose of the DEIS is to provide decision makers and the public with information pertaining to the Proposed Action, and to disclose environmental impacts and identify mitigation measures to reduce impacts. The DEIS analyzes the Parker Water and Sanitation District's proposal to construct and operate Rueter-Hess Reservoir and the associated water delivery system. The proposed reservoir would be located in Douglas County, Colorado approximately 12 miles southeast of Denver and 3 miles southwest of the town of Parker. The reservoir would be located on Newlin Gulch with a diversion structure along Cherry Creek. The project would include a 16,200 acre-foot (AF) reservoir inundating 470 acres, a 5,300-foot long and 135-foot high dam, two pipelines, a water treatment plant and booster pump station, a diversion structure along Cherry Creek with a pump station, and 16 Denver Basin extraction wellfields.

The proposed water supply system would rely upon renewable sources of water, including the capability of capturing, storing, and reusing seasonal high flows in nearby Cherry Creek, and Advanced Wastewater Treatment (AWT) return flows currently discharged into Cherry Creek. The water from the reservoir would be used primarily to help satisfy the District's peak seasonal demands, thereby reducing the loading on nonrenewable Denver Basin aquifer groundwater. The reservoir is needed by the District to provide operational flexibility to ensure a long-term, reliable water supply.

In addition to the Proposed Action, the DEIS analyzes two alternatives: (1) The Reduced Capacity Reservoir (11,200 AF), and (2) the No Action. The Reduced Capacity Reservoir would be constructed along the same dam axis as the Proposed Action, but with a smaller storage capacity. The dam would be

5,000 feet long, 123 feet high, and inundate approximately 370 acres. A total of 17 Denver Basin wellfields would be developed, one more wellfield than the Proposed Action. The diversion facilities along Cherry Creek would be the same as for the Proposed Action. The No Action Alternative assumes that the Rueter-Hess Reservoir would not be built and that the District would continue with their current operational plan relying upon deep groundwater well fields and alluvial Cherry Creek wellfields to supply their water. It is estimated that 71 Denver Basin wellfields would be required to supply the area within the District's legal boundary.

Rodney J. Schwartz,*Senior Project Manager, Regulatory Branch.*

[FR Doc. 02-4177 Filed 2-21-02; 8:45 am]

BILLING CODE 3710-62-P

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Everglades Agricultural Area (EAA) Storage Reservoirs—Phase 1 Project, Central and Southern Florida (C&SF) Project, Comprehensive Review Study****AGENCY:** U.S. Army Corps of Engineers, DoD.**ACTION:** Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), intends to prepare an integrated Project Implementation Report (PIR) and DEIS for the EAA Storage Reservoirs Project. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperating agency for this DEIS. The lack of water storage in the Everglades system, particularly during wet periods, has led to ecological damage of Lake Okeechobee's littoral zone and damaging regulatory releases to the St. Lucie and Caloosahatchee estuaries. Conversely, in dry periods, this lack of storage has led to water supply shortages for both the human and natural environment. The EAA Storage Reservoirs—Phase 1 is one of the initially authorized projects of the C&SF Comprehensive Review Study (Restudy). The integrated PIR will evaluate providing 240,000 acre-feet of storage on existing Federally- and State-owned lands and increasing the canal conveyance of the Miami, North New River, Bolles, and Cross Canals.

FOR FURTHER INFORMATION CONTACT: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, PO Box 4970, Jacksonville, Florida 32232-0019; Attn: Ms. Janete Cushing, or by telephone at 904-232-2259.

SUPPLEMENTARY INFORMATION: a.

Authorization: Section 601 of the Water Resources Development Act of 2000 (Public Law 106-541) authorizes the implementation of the EAA Storage Reservoirs—Phase 1 Project.

b. *Study Area:* The study area is the Everglades Agricultural Area, approximately 500,000 acres immediately south of Lake Okeechobee, and within sections of Palm Beach and Hendry Counties.

c. *Project Scope:* The scope includes conducting a watershed assessment of the study area and developing alternative plans for optimizing the design of water storage reservoirs and increasing the canal conveyance of the Miami, North New River, Bolles, and Cross Canals. The watershed assessment will refine the Restudy water budgets for the project components and provide peak flows for canal conveyance improvement requirements. The evaluation of the alternative and selection of a recommended plan will be documented in the PIR. The alternative plans will be reviewed under provisions of appropriate laws and regulations, including the Endangered Species Act, Fish and Wildlife Coordination Act, Clean Water Act, and Farmland Protection Policy Act.

d. *Preliminary Alternatives:* The Talisman and Woerner land acquisition, composed of 3 parcels totaling approximately 49,900 acres, and the design of Stormwater Treatment Area-3/4 determine the footprint of the reservoirs. Further plan formulation will determine the configuration and sizing of the reservoirs, as well as the design of the levees and pump stations.

e. *Issues:* The EIS will address the following issues: impacts to aquatic, wetland, and upland ecosystems; water flows; socio-economic impacts on agriculture and other water supply dependent business; hazardous and toxic waste; water quality; flood protection; the impacts of land acquisition on the tax base; aesthetics and recreation; fish and wildlife resources, including protected species; cultural resources; and other impacts identified through scoping, public involvement, and interagency coordination.

f. *Scoping:* A scoping letter and multiple public workshops will be used to invite comments on alternatives and issues from Federal, State, and local

agencies, affected Indian tribes, and other interested private organizations and individuals.

g. *DEIS Preparation:* The integrated PIR, including a DEIS, is currently scheduled for publication in November 2003.

Dated: February 6, 2002.

George M. Strain,

Chief, Planning Division.

[FR Doc. 02-4183 Filed 2-21-02; 8:45 am]

BILLING CODE 3710-AJ-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 23, 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: February 15, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of English Language Acquisitions

Type of Review: New.

Title: Descriptive Study of Immigrant Education Programs.

Frequency: Semi-Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 555.

Burden Hours: 317.

Abstract: The goals of the Descriptive Study of Immigrant Education are to provide information about: (1) The types of programs and services for immigrant children and youth and best practices for serving this population; (2) the degree to which immigrant students are meeting state standards; and (3) the way in which services are paid for and provided. The study will include case studies of 15 districts that represent diverse circumstances and populations, and a range of approaches to serving recent immigrant children and youth.

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 or to the e-mail address vivian.reese@ed.gov. 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. 02-4224 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests****AGENCY:** Department of Education.**ACTION:** Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 22, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 23, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Karen_F.Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: February 19, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education*Type of Review:* New.*Title:* Early Reading First Applicant Eligibility.

Abstract: The Early Reading First program will provide grants to eligible local educational agencies (LEAs) and public and private organizations located in those LEAs to transform early education programs into centers of excellence to help young at-risk children achieve the language, cognitive, and early reading skills they need to succeed when they enter kindergarten. This notice sets eligibility standards and thresholds for LEAs on poverty, achievement, and school improvement status for the FY 2002 grant competition, and requests that States provide LEA data on achievement and schools in school improvement for the Department to use in identifying eligible LEAs.

Additional Information: The Department is seeking OMB approval on or before February 22, 2002, for an emergency paperwork collection for this information from the States for the Early Reading First program. This request is based upon the unanticipated delay in enactment of the No Child Left Behind Act, the Administration's interest in awarding Early Reading First grants as soon as possible, and the public harm that otherwise might occur with delaying grant awards past December, 2002.

Frequency: Annually.*Affected Public:* Not-for-profit institutions.*Reporting and Recordkeeping Hour Burden:**Responses:* 52.*Burden Hours:* 156.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202-4651, vivian.reese@ed.gov, or should be electronically mailed to the internet address OCIO_RIMG@ed.gov, or should be faxed to 202-708-9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776-7742 or via her internet address Kathy.Axt@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. 02-4376 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY**[DE-PS07-02ID14264]****Enhanced Geothermal Systems (EGS)****AGENCY:** Idaho Operations Office, DOE.**ACTION:** Notice of Competitive Financial Assistance Solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications for the development of Enhanced Geothermal Systems (EGS) to expand production from geothermal resources. For purposes of this solicitation, EGS are defined as engineered reservoirs created to extract heat from economically unproductive geothermal resources. The knowledge gained from this work will result in new and improved technology that will help meet the goals of the Geothermal Program. EGS projects are sought to improve reservoir productivity and lifetime through the application of either conventional or novel engineering techniques. The objective of this solicitation is to bring new geothermal resources into production using Enhanced Geothermal Systems for the purpose of generating electric power.

DATES: The issuance date of Solicitation Number DE-PS07-02ID14264 is on or about February 14, 2002. The SF 424, and the technical application must have an IIPS transmission time stamp of not later than 5:00 p.m. ET on Monday, March 31, 2002.

ADDRESSES: Completed applications are required to be submitted via the U. S. Department of Energy Industry Interactive Procurement System (IIPS) at the following URL: <http://e-center.doe.gov>.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dahl, Contract Specialist at dahllee@id.doe.gov, facsimile at (208) 526-5548, or by telephone at (208) 526-7214.

SUPPLEMENTARY INFORMATION:

Approximately \$10,000,000 in federal funds will be made available over the next five to six fiscal years. Of that amount, about \$500,000 is expected to be available in fiscal year 2002 to fund one to two awards for the first budget year of the cooperative agreements stemming from this solicitation. DOE anticipates that Phase One of the award will run for approximately two budget periods and will include feasibility assessment, detailed conceptual design, field studies, and environmental approvals. Phase Two will involve construction and testing of the EGS. Phase Three is to construct permanent surface facilities including a power plant. Phase Four is to monitor reservoir and plant performance. During each phase, the Awardee must provide minimum non-federal cost share in the amounts specified as follows: Phase One—20%; Phase Two—40%; Phase Three—80%; Phase Four—100%. Only those who own, have valid leases, or legal access to unproductive geothermal properties in the U. S. and are capable of providing the necessary cost-share may submit proposals. Third party consulting groups may be part of the project team, but they are not eligible to submit proposals. National laboratories will not be eligible for an award under this solicitation. The solicitation is available in its full text via the Internet at the following address: <http://e-center.doe.gov>. The statutory authority for this program is the Department of Energy Organization Act of 1977, Public Law 95-238, Section 207, Public Law 101-218. The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087, Renewable Energy Research and Development.

Issued in Idaho Falls on February 14, 2002.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 02-4254 Filed 2-21-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site.

The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, March 6, 2002, 6 p.m.—9 p.m.

ADDRESSES: Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT:

Kelly Kozeliski, U.S. Department of Energy, Office of Environmental Management, PO Box 98518, Las Vegas, Nevada 89193-8513, phone: 702-295-2836, fax: 702-295-5300, e-mail kozelskik@nv.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. CAB members will discuss prioritization of environmental management projects for the FY 2004 federal budget submittal.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kelly Kozeliski, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kelly Kozeliski at the address listed above.

Issued at Washington, DC, on January 19, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02-4253 Filed 2-21-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP02-1-000]

Bowers Drilling Company, Inc.; Notice of Petition for Adjustment

February 14, 2002.

Take notice that on January 3, 2002, Bowers Drilling Company, Inc. (Bowers) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),¹ requesting relief from its obligation to pay Kansas ad valorem tax refunds to Williams Gas Pipelines Central, Inc. (Williams) for the period from 1983 to 1988, as required by the Commission's September 10, 1997 order in Docket No. RP97-369-000, et al.² Bowers' petition is on file with the Commission and open to public inspection.

Bowers' request for relief is based on a March 17, 1992 take-or-pay settlement agreement with Williams. Bowers asserts the settlement agreement includes a release from all claims regarding its contracts with Williams, for all periods prior to 1992, including any Federal Energy Regulatory Commission claims arising out of, or in conjunction with, or relating to its contracts with Williams. In view of this, and because the claim for Kansas ad valorem tax reimbursement was taken into account when Bowers agreed to the settlement amount, Bowers contends that granting relief is warranted.

Any person desiring to be heard or to protest said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.1105 and 385.1106). 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

¹ 15 U.S.C. § 3142(c) (1982).

² 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

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.,

Deputy Secretary.

[FR Doc. 02-4249 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-77-000]

Dominion Transmission, Inc.; Notice of Application

February 14, 2002.

Take notice that on January 30, 2002, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, WVA, 26301, tendered for filing an abbreviated application for a certificate of public convenience and necessity pursuant to section 7(b) of the Natural Gas Act (NGA) to abandon certain X-Rate Schedules in DTI's FERC Gas Tariff,

First Revised Volume No. 2, all as more fully set forth in the application, which is on file and open to public inspection. The application may be viewed on the Web at www.ferc.gov using the "RIMS" link, select "Docket #" from the RIMS menu and follow the instructions (call (202) 208-2222 for assistance).

DTI asserts that no abandonment of any facility is proposed. DTI proposes to abandon ten service agreements under its FERC Gas Tariff, First Revised Volume No. 2. The information in the table below summarizes each individual service agreement:

X-rate schedule number	Customer name	Docket number of original certificate authorization	Type of service rendered and date terminated
X-20	Brooklyn Union Gas Company	CP76-265-000	Transportation Agreement terminated July 1, 1995.
X-21	Brooklyn Union Gas Company and Transcontinental Gas Pipe Line Corporation.	CP76-265-000	Transportation and Exchange will terminate effective date of abandonment Order.
X-23	Pittsburgh Tube Company	CP76-260-000	Transportation Agreement expired after primary term of 15 years.
X-29	Transcontinental Gas Pipe Line Corporation.	CP80-44-000	Transportation Agreement ended November 1, 1982.
X-43	Texas Eastern Transmission Corporation.	CP83-386-000	Storage Agreement ended April 15, 1986.
X-73	Kamine/Besicorp South Glens Falls, L.P.	CP89-638-000	Transportation Agreement ended June 30, 1998.
X-75	Sterling Power Partners, L.P	CP89-638-000	Transportation Agreement ended June 30, 1998.
X-80	Indeck-Osewgo Limited Partnership.	CP89-712-000	Transportation Agreement ended June 30, 1998.
X-100	Seneca Power Partners, L.P	CP91-2989-000	Transportation Agreement ended June 30, 1998.
X-102	Indeck-Illion Limited Partnership ...	CP89-638-005 and CP89-638-007.	Transportation Agreement ended June 30, 1998.

Any question regarding this application may be directed to Mr. William P. Saviers, Esquire, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia, 26301, at (304) 627-3340.

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, on or before March 7, 2002, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

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.

Take notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of matter, will determine whether granting the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for DTI to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-4248 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-27-000]

Florida Gas Transmission Company; Notice of Site Visit

February 15, 2002.

On February 25 through 28, 2002, the staff of the Office of Energy Projects (OEP) will conduct a pre-certification

site visit of Florida Gas Transmission Company's (FGT) proposed route and potential alternative routes for the Phase VI Expansion Project in Alabama and Florida.

All interested parties may attend. The areas will be inspected by automobile. Representatives of FGT will accompany the OEP staff. Anyone interested in participating in the site visits must provide their own transportation. For additional information, contact the Commission's Office of External Affairs at (202) 208-1088.

Magalie R. Salas,
Secretary.

[FR Doc. 02-4244 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP02-2-000]

Dale P. And/or Avril Jewett; Notice of Petition for Adjustment

February 14, 2002.

Take notice that on January 3, 2002, Dale P. and/or Avril Jewett (the Jewetts) filed a petition for adjustment under section (c) of the Natural Gas Policy Act of 1978 (NGPA),¹ requesting to be relieved of its obligation to pay Kansas ad valorem tax refunds to Williams Gas Pipeline Central, Inc. for the period from 1983 to 1988, as required by the Commission's September 10, 1997 order in Docket No. RP97-369-000, et al.² The Jewetts' petition is on file with the Commission and open to public inspection.

The Jewetts assert that paying the refund would constitute a burden since they are retired and are living on a fixed income. Dale Jewett was forced to retire in 1992 from Gould Oil Company Inc. And their small working interest ownership in the properties subject to the Commission's order was intended to be "in lieu" of a retirement plan. They state they receive only a very small gross revenue every few months that rarely meets the operating costs assessed by Gould.

Any person desiring to be heard or to protest said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.1105 and 385.1106). 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.,
Deputy Secretary.

[FR Doc. 02-4250 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-54-000]

Northern Natural Gas Company; Notice of an Application

February 15, 2002.

Take notice that on December 18, 2001, Northern Natural Gas Company (Northern), filed pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), requesting permission and approval to abandon service under an individually certificated agreements, all as more fully set forth in the joint application which is on file with the Commission, and open to public inspection.

Specifically, Northern, proposes to abandon Rate Schedules X-90 to North Texas Gas Company; X-81 to Getty Oil Company; X-52 to Panhandle Eastern Pipe Line Company; X-29 to BP America Inc.; and X-16 to West Texas Gas, all contained in its FERC Gas Tariffs, Original Volume No. 2. The agreements have terminated pursuant to its terms.

Any questions regarding this application should be directed to Keith L. Petersen, Director, Certificates and Reporting for Northern, 1111 South 103 Street, Omaha, Nebraska 68124, or Bret

Fritch, Senior Regulatory Analyst, at (402) 398-7140.

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 Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed by March 8, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceedings. 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. 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 7 and 15 of the National Gas Act and the Commission's Rules of Practice and Procedures, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the Abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or the Commission on its own motion believe that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Magalie R. Salas,
Secretary.

[FR Doc. 02-4245 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

¹ 15 U.S.C. section 3142(c) (1982).

² 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1988).

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. CP02-36-001]****Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff**

February 14, 2002.

Take notice that on February 4, 2002, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective on the dates indicated:

Effective January 23, 2002

Eighth Revised Sheet No. 1
1st Rev 39th Revised Sheet No. 21
Second Revised Sheet No. 150
First Revised Sheet No. 151
Third Revised Sheet No. 227C
Sixth Revised Sheet No. 228
Second Revised Sheet No. 228A
Eleventh Revised Sheet No. 229
Fourth Revised Sheet No. 229A
Fifth Revised Sheet No. 230A
Fourth Revised Sheet No. 247
Seventh Revised Sheet No. 252

Effective February 1, 2002

Substitute Fortieth Revised Sheet No. 21

Williston Basin states that the tariff sheets comply with the Commission's January 23, 2002 order, granting Williston Basin's application to abandon the transportation service provided to Shell Western E&P, Inc. under Rate Schedule T-5 as well as Rate Schedule T-5 in its entirety. Such order required Williston Basin to file tariff sheets in compliance with Part 154 of the Commission's Regulations.

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, respectively, of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 25, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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.,*Deputy Secretary.*

[FR Doc. 02-4247 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 3494-058, Pennsylvania]****Allegheny No. 6 Hydro Partners; Notice of Availability of Final Environmental Assessment**

February 14, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application to install 12-inch-high flashboards at the Allegheny Lock and Dam No. 6 Hydroelectric Project and has prepared a Final Environmental Assessment (FEA). The hydroelectric project is located at a U.S. Army Corps of Engineers dam (Lock and Dam No. 6) on the Allegheny River, near the town of Ford City, in Armstrong County, Pennsylvania. No other federal or tribal lands are occupied by the hydroelectric project.

The Commission has begun a proceeding to determine if reserved authority in article 17 of the license should be used to require 12-inch-high flashboards at Lock and Dam No. 6. Flashboards can be used to increase water levels in Pool No. 6 to more closely resemble pre-hydroelectric conditions. The proceeding is in response to concerns raised by the Pennsylvania Fish and Boat Commission about the impacts of project-induced lower water levels on recreational boating in Pool No. 6. The FEA contains Commission staff's analysis of the potential environmental impacts of installing 12-inch-high flashboards and concludes that flashboards should not be installed at Lock and Dam No. 6 because of adverse impacts to wetlands.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link—select "P-3494" and follow the

instructions (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,*Deputy Secretary.*

[FR Doc. 02-4251 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Technical Conference Organization**

February 14, 2002.

In the matter of Docket Nos. RM01-12-000, RT01-2-001, RT-2-002, RT01-2-003, RT01-10-000, RT01-15-000, RT01-34-000, RT01-35-000, RT01-67-000, RT01-74-000, RT01-75-000, RT01-77-000, RT01-85-000, RT01-86-000, RT01-86-001, RT01-86-002, RT01-87-000, RT01-88-000, RT01-94-000, RT01-95-000, RT01-95-001, RT01-95-002, RT01-98-000, RT01-99-000, RT01-99-001, RT01-99-002, RT01-99-003, RT01-100-000, RT01-101-000, EC01-146-000, ER01-3000-000, RT02-1-000, EL02-9-000, EC01-156-000, ER01-3154-000, and EL01-80-000

Electricity Market Design and Structure, PJM Interconnection, L.L.C.,

Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, UGI Utilities Inc., Allegheny Power, Avista Corporation, Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company, Southwest Power Pool, Inc., Avista Corporation, Bonneville Power Administration, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company, GridFlorida LLC, Florida Power & Light Company, Florida Power Corporation, Tampa Electric Company, Carolina Power & Light Company, Duke Energy Corporation, South Carolina Electric & Gas Company, GridSouth Transco, LLC, Entergy Services, Inc., Southern Company Services, Inc., California Independent System Operator Corporation, Bangor Hydro-Electric Company, Central Maine Power Company, National Grid USA, Northeast Utilities Service Company, The United Illuminating Company, Vermont

Electric Power Company, ISO New England Inc., Midwest Independent System Operator, Alliance Companies, NSTAR Services Company, New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Orange & Rockland Utilities, Inc., Rochester Gas & Electric Corporation, PJM Interconnection, L.L.C., Regional Transmission Organizations, Regional Transmission Organizations, International Transmission Company, DTE Energy Company, Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, Tucson Electric Power Company, WestConnect RTO, LLC, Alliant Energy Corporate Services, Inc., MidAmerican Energy Company, Xcel Energy Services, Inc., TRANSLink Transmission Company, LLC, National Grid USA

Notice of Technical Conference Organization

As announced in the Notice of Technical Conference issued on February 5, 2002, Commission staff will hold a technical conference on February 19, 2002, to discuss the allocation of regional transmission organization (RTO) characteristics and functions between separate organizations within an RTO region.¹ Participants also may address the allocation of responsibility for performing other wholesale market functions. This notice provides further organizational details and the conference agenda.

The conference will start at approximately 9 a.m. and will adjourn at about 4:45 p.m. It is scheduled to take place at the Commission's offices, 888 First Street, N.E., Washington, DC 20426, in the Commission Meeting Room on the second floor. The agenda is appended to this notice as Attachment A.

The conference is open for the public to attend, and registration is not

required. Members of the Commission may attend the conference and participate in the discussions. We ask participants to focus on the following four questions:

(1) If the functions and characteristics specified in Order No. 2000 are shared or coordinated among separate organizations within an RTO, how would you suggest that these functions be apportioned? Please use the matrix appended to this notice as Attachment B as a guide.

(2) From the perspective of either engineering or economic efficiency, is it more appropriate to have certain functions administered over as large a region as possible? Conversely, are there certain functions which can be effectively administered at a sub-regional level?

(3) As we try to evaluate how functions might be apportioned, is it useful to distinguish between functions that relate solely to operating and administering the transmission grid and functions that relate more to operation and oversight of markets for trading wholesale power and energy?

(4) Is the business model or incentive structure proposed for an organization relevant to the question of which functions it should undertake?

Any interested party may file comments in Docket No. RM01-12-000 that address the issues above or follow up on the conference discussions. It is not necessary to re-file comments or file summaries of comments already filed with the Commission. Commenters are asked to specifically identify the region or regions, if any, that their comments address, and to cross-file their comments in any appropriate RT dockets. Comments must be filed no later than March 12, 2002.

The Capitol Connection offers all open and special Commission meetings held at the Commission's headquarters live over the Internet, as well as via telephone and satellite. For a fee, you can receive these meetings in your office, at home, or anywhere in the world. To find out more about the Capitol Connection's live Internet, phone bridge, or satellite coverage, contact David Reininger or Julia Morelli at (703) 993-3100, or visit www.capitolconnection.gmu.edu. The Capitol Connection also offers FERC open meetings through its Washington, D.C.—area television service.

Additionally, live and archived audio of FERC public meetings are available for a fee via National Narrowcast Network's Hearings.com (sm) and Hearing-On-The-Line (r) services. Interested parties may listen to the conference live by phone or web.

Hearings.com audio will be archived immediately for listening on demand after the event is completed. Call (202) 966-2211 for further details.

Those interested in obtaining transcripts of the conference need to contact Ace Federal Reporters at (202) 347-3700 or (800) 336-6646. Anyone interested in purchasing videotapes of the meeting should call VISCOM at (703) 715-7999.

Other questions about the conference program should be directed to: Diane Bernier, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219-2886, diane.bernier@ferc.gov.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-4252 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

Regulations Governing Off-the-Record Communications; Public Notice

February 15, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests

¹ The RTO characteristics are: (1) Independence; (2) scope and regional configuration; (3) operational authority; and (4) short-term reliability. RTO functions include: (1) Tariff administration and design; (2) congestion management; (3) parallel path flow; (4) ancillary services; (5) OASIS, total transmission capacity and available transmission capacity; (6) market monitoring; (7) planning and expansion; and (8) interregional coordination. See Regional Transmission Organizations, Order No. 2000, FERC Stats. and Regs. 31,089 (1999), *order on reh'g*, Order No. 2000-A, FERC Stats. And Regs. 31,092 (2000), *aff'd*, Public Utility District No. 1 of Snohomish County, Washington v. FERC, 272 F.3d 607 (D.C. Cir. 2001). See also Order Providing Guidance on Continued Processing of RTO Filings, 97 FERC ¶ 61,146 at 61,633 (2001).

only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the

decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file

with the Commission and are available for public inspection. The documents may 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).

Take note that this notice will now be issued by the Commission on a weekly rather than bi-weekly basis.

Docket No.	Date filed	Presenter
Exempt:		
1. CP01-361-000	02-11-02	Susan Smillie.
2. CP01-384-000	02-11-02	Paul Campagnola.
3. Project No. 2016-044	02-13-02	Brian J. Brown.
4. CP01-361-000	02-13-02	Susan Smillie.
5. CP01-361-000	02-13-02	Alynda Foreman.
6. CP01-384-000	02-13-02	Sen. Melodie Peters (Conn.).
7. CP01-384-000	02-14-02	U.S. Rep. Felix J. Grucci (N.Y.).

Magalie R. Salas,

Secretary.

[FR Doc. 02-4246 Filed 2-21-02; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6626-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D-AFS-J65357-MT Rating EC2, White Pine Creek Project, Timber Harvest, Prescribe Fire Burning, Watershed Restoration and Associated Activities, Implementation, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT.

Summary: EPA expressed environmental concerns about increased peak flow from proposed timber harvest and impacts to the threatened bull trout. A biological assessment for the bull trout should have been included in the DEIS. EPA believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

ERP No. D-FRC-B05192-ME Rating EC2, Presumpscot River Projects, Relicensing of Five Hydroelectric Projects for Construction and Operation, Dundee Project (FERC No. 2942); Gambo Project (FERC No. 2931); Little Falls Project (FERC No. 2932); Mallison Falls Project (FERC No. 2941) and Saccarappa Project (FERC No. 2897), Cumberland County, ME.

Summary: EPA expressed environmental concerns about the absence of fish passage measures for anadromous fish for portions of the project, and that the EIS understated the effect of dam removal in combination with adequate fish passage on restoration of aquatic resources/water quality of the river. EPA also believes that FERC recommended bypass flows are too low and should be raised year round to increase habitat for fish, aquatic invertebrates and resident fish so water quality standards are met.

ERP No. DS-AFS-J65295-MT Rating EC2, Clancy-Unionville Vegetation Manipulation and Travel Management Project, Updated and New Information concerning Cumulative Effects and Introduction of Alternative F, Clancy-Unionville Implementation Area, Helena National Forest, Helena Ranger District, Lewis and Clark and Jefferson Counties, MT.

Summary: EPA expressed environmental concerns regarding the levels of road rehabilitation. EPA recommended that additional information should be presented regarding increased road rehabilitation and consistency of proposed actions with State TMDL development.

ERP No. DS-AFS-L65376-OR Rating EC2, Silvies Canyon Watershed Restoration Project, Additional Information concerning Ecosystem

Health Improvements in the Watershed, Grant and Harney Counties, OR.

Summary: EPA expressed environmental concerns with impacts to air quality and concerns about insufficient disclosure of tribal consultation and coordination.

Final EISs

ERP No. F-FRC-B03012-00, Phase III/ Hubline Project, Construction and Operation a Natural Gas Pipeline, Maritimes and Northeast Pipeline (Docket No. CP01-4-000), Algonquin Gas Transmission (Docket No. CP01-5-000) and Texas Eastern Transmission (Docket No. CP01-8-000), MA and CT.

Summary: EPA expressed environmental concerns about impacts to water supply sources and about mitigation associated with the project. EPA also expressed concerns about NEPA process related issues.

ERP No. F-FTA-B59001-CT, New Britain—Hartford Busway Project, Proposal to Build an Exclusive Bus Rapid Transit (BRT) Facility, Located in the Towns/Cities of New Britain, Newington, West Hartford and Hartford CT.

Summary: EPA expressed a lack of environmental objections to the project and applauded the FTA/CTDOT decision to construct a multi-use path as part of the project and continues to suggest that the vehicles on the busway should use alternative fuel or be cleaner diesel vehicles that use particulate filters. EPA also encouraged FTA/CTDOT to commit resources to support transit oriented development in the vicinity of the busway stations.

ERP No. F-USN-B11024-MA, South Weymouth Naval Air Station, Disposal and Reuse, Norfolk and Plymouth Counties, MA.

Summary: EPA continues to have environmental concerns about impacts of the project related to traffic/air quality, water supply, wastewater treatment and land use and associated mitigation. EPA continued to encourage the Navy to consider mechanisms (smart growth and others) to determine whether the base redevelopment could occur in a manner that would result in fewer environmental impacts.

Dated: February 19, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-4270 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6626-7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or www.epa.gov/oeca/ofa. Weekly receipt of Environmental Impact Statements filed February 11, 2002 through February 15, 2002 pursuant to 40 CFR 1506.9.

EIS No. 020061, Final EIS, SFW, WA, Icicle Creek Restoration Creek Project, To Protect and Aid in the Recovery of Threatened and Endangered Fish, Leavenworth National Fish Hatchery (LNFH), COE Section 404 and NPDES Permits, Leavenworth, WA. Wait Period Ends: March 25, 2002, Contact: Greg Pratschner (509) 548-7641.

EIS No. 020062, Draft Supplement, FHW, VA, U.S. Route 29 Bypass Improvement, between Route 250 Bypass in Charlottesville and the South Rivanna River in Albemarle, Updated Information, To consider the Effects of the Selected Alternative on the South Fork Rivanna River Reservoir and its Watershed, US COE Section 404 Permit, Albemarle County, VA, Comment Period Ends: April 16, 2002, Contact: Edward S. Sundra (804) 775-3338.

EIS No. 020063, Draft EIS, FHW, AR, Springdale Northern Bypass Project, US Highway 412 Construction, Funding, NPDES Permit, Benton and Washington Counties, AR, Comment Period Ends: April 15, 2002, Contact: Randal Looney (501) 324-5625.

EIS No. 020064, Final EIS, USN, CA, Point Molate Property Naval Fuel Depot (NFD) for the Disposal and Reuse, Implementation, Fleet and Industrial Supply Center, City of Richmond, Contra Costa County, CA, Wait Period

Ends: March 25, 2002, Contact: Larry Dean (619) 532-0936.

EIS No. 020065, Draft EIS, FAA, PA, MD, VA, WV, DC, Potomac Consolidated Terminal (PCT) Radar Approach Control Facility (TRACON) Airspace Redesign, in Baltimore-Washington Metropolitan Area, Newly Consolidated (TRACON), Improved Aircraft Performance, and Emerging ATC Technologies, PA, MD, DE, VA, WV and DC, Comment Period Ends: May 28, 2002, Contact: William Carver (800) 762-9531.

EIS No. 020066, Draft EIS, COE, CO, Rueter-Hess Reservoir Project, Construction and Operation, Proposed Water Supply Reservoir and Off-Stream Dam, COE Section 404 Permit, Endangered Species Act (Section &) and Right-of-Way Use Permit, Located on Newlin Gulch along Cherry Creek, Town of Parker, Douglas County, CO, Comment Period Ends: April 08, 2002, Contact: Rodney J. Schwartz (402) 221-4143.

EIS No. 020067, Final EIS, USN, FL, Renewal of Authorization to Use Pinecastle Range, Continue Use of the Range for a 20-Year Period, Special Use Permit Issuance, Ocala National Forest, Marion and Lake Counties, FL, Wait Period Ends: March 25, 2002, Contact: Darrell Molzan (843) 820-5796.

EIS No. 020068, Final EIS, FRC, CA, Big Creek No. 4 Hydroelectric Project, Issuing New License, (FERC Project No. 2017), San Joaquin River Basin, Sierra National Forest, Fresno, Madera and Tulare Counties, CA, Wait Period Ends: March 25, 2002, Contact: John Ramer (202) 219-2833.

This document is available on the Internet at: <http://rimsweb1.ferc.gov>.

EIS No. 020069, Draft EIS, FTA, TX, Southeast Corridor Light Rail Transit Project, Construction and Operation, Funding, NPDES Permit and COE Section 404 Permit, Mobility 2025 Plan Update, Dallas Area Rapid Transit (DART), the City of Dallas, Dallas County, TX, Comment Period Ends: April 08, 2002, Contact: Jesse Balleza (817) 860-9663.

EIS No. 020070, Draft EIS, FTA, NV, Las Vegas Resort Corridor Project, Transportation Improvements, Funding, City of Las Vegas, Clark County, NV, Comment Period Ends: April 08, 2002, Contact: Ray Sukys (415) 744-3115.

EIS No. 020071, Draft EIS, BPA, WA, OR, Wallula Power Project and Wallula-McNary Transmission Line Project, Construction and Operation, 1300 megawatt(MW) Natural Gas Fired Combustion Gas Turbine Facility and a new 500-kilovolt(kV) Transmission Line and Upgrade of the McNary Substation, US COE Section 10 and 404 Permits, Walla-Walla Co., WA and Umatilla Co.,

OR, Comment Period Ends: April 11, 2002, Contact: Donald L. Rose (503) 230-3796.

This document is available on the Internet at: <http://www.efsec.wa.gov>.

Dated: February 19, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance, Office of Federal Activities.

[FR Doc. 02-4271 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7148-3]

Availability of FY 00 Grant Performance Reports for States of Tennessee and Georgia, and the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA performed end-of-year evaluations of all state air pollution control programs. Evaluations for the Commonwealth of Kentucky, and the States of Georgia and Tennessee are now available for public review. These evaluations were conducted to assess the agencies' performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection. The evaluations for the remainder of the States and local governments were published at an earlier date.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW., Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Gloria Knight, (404) 562-9064, for information concerning the State of Tennessee; or Marie Persinger (404) 562-9048, for information concerning Kentucky and Georgia. They may be contacted at the above Region 4 address.

Dated: February 7, 2002.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 02-4302 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66300; FRL-6826-8]

Notice of Receipt of Requests to Cancel Certain Chromated Copper Arsenate (CCA) Wood Preservative Products and Amend to Terminate Certain Uses of CCA Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from registrants of affected chromated copper arsenate (CCA) products to cancel certain products and to amend to terminate certain uses of other CCA products. These requests were submitted to EPA in February 2002. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon acceptance of these requests, any sale, distribution, or use of products listed in this notice will only be permitted if such distribution, sale, or use is consistent with the terms as described in this notice.

DATES: Comments must be received on or before March 25, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66300 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Bonaventure Akinlosotu, Antimicrobial Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 308, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 605-0653; e-mail: akinlosotu.bonaventure@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of five parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to terminate uses. The third part describes the action taken by this notice. The

fourth part describes the Agency's legal authority for the action announced in this notice. The fifth part proposes existing stocks provisions that the Agency intends to authorize.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use CCA products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP-66300. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public

Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66300 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-66300. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the

information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background of the Receipt of Requests to Cancel and Amend Registrations to Delete Uses

As a result of current and projected market demand and the availability of new generation wood treatment products, the below identified four registrants of CCA products have requested EPA to cancel certain affected products and to amend to terminate uses of the other pesticide registrations of the products identified in this notice (Tables 1 and 2). The letter from Arch Wood Protection, Inc. was dated February 5, 2002; from Chemical Specialties, Inc., dated February 4, 2002; from Osmose, Inc., dated February 6, 2002; and from Phibro-Tech, Inc., dated February 6, 2002. Specifically, the Agency has received a request to cancel two products, and requests to amend other affected end-use and manufacturing-use registrations to terminate all uses of such products with the exception of the treatment of forest products that fall under the American Wood Preservers Association (AWPA)

standards listed as stated below in the text of the requested label amendments.

For affected manufacturing-use products, the label amendments would read as follows:

Effective December 31, 2003, this product may only be used (1) for formulation of the following end-use wood preservative products: ACZA or CCA labeled in accordance with the "Directions for Use" shown below, or (2) by persons other than the registrant, in combination with one or more other products to make: ACZA wood preservative; or CCA wood preservative that is used in accordance with the "Directions for Use" shown below.

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

For affected end-use products, the label amendments would read as follows:

Effective December 31, 2003, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood Preservers' Association Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

In addition, the registrants requested that EPA allow use of the previous (unamended) labels for a period of 60 calendar days from the date on which the particular affected registrant receives EPA's approval of the amendments, and that EPA allow a further amendment by notification on or

before December 1, 2003 to: (1) Delete the use directions in effect prior to these amendments, and (2) to delete the statement "Effective December 31, 2003" from the amended labels approved by EPA. Furthermore, the registrants stated in their letters that they will not amend or withdraw their requests before EPA acts on them. The registrants also intend to notify their customers of the amended labels by certified mail after EPA acts on the request.

The registrants also estimate that during the first year following acceptance of the amendments by EPA, sales of new generation wood treatment products are likely to increase to 15% to 25% of the total average sales during 1999, 2000, and 2001 of the products identified in Tables 1 and 2 for the non-industrial treatment categories subject to these amendments, and are estimated to increase to 60% to 70% of the same total average sales for these treatment categories subject to these amendments during the second year following acceptance of the amendments by EPA. Further, the registrants estimate that during the first year following acceptance of the amendments by EPA, sales of the products identified in Tables 1 and 2 are likely to decrease by 15% to 25% of their total average sales during 1999, 2000, and 2001 for the non-industrial treatment categories subject to the amendments, and are estimated to decrease by 60% to 70% of the same total average sales during 1999, 2000, and 2001 for these treatment categories subject to the amendments during the second year following acceptance of the amendments by EPA.

III. What Action is the Agency Taking?

This notice announces receipt by the Agency under section 6(f)(1) of FIFRA from the four identified registrants of CCA products of requests to cancel two affected products and to amend other affected CCA product registrations to terminate all uses with the exception of the treatment of forest products listed above. The affected products and the registrants making the requests are identified in Tables 1 - 3 below.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES

Registration Number	Product Name
End Use Products 3008-17	K-33-C (72%) Wood Preservative

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES—Continued

Registration Number	Product Name
3008-21	Special K-33 Pre-servative
3008-34	K-33 (60%) Wood Preservative
3008-35	K-33 (40%) Type-B Wood Preservative
3008-36	K-33-C (50%) Wood Preservative
3008-42	K-33-A (50%) Wood Preservative
3008-72	Osmose Arsenic Acid 75%
10465-26	CCA Type-C Wood Preservative 50%
10465-28	CCA Type-C Wood Preservative 60%
10465-32	CSI Arsenic Acid 75%
35896-2	Wood-Last Conc. Wood Preservation AQ 50% Solution CCA-Type A
62190-2	Wolmanac® Concentrate 50%
62190-8	Wolmanac® Concentrate 72%
62190-14	Wolmanac® Concentrate 60%
Manufacturing Use Products 3008-66	Arsenic Acid 75%
10465-32	CSI Arsenic Acid 75%
62190-7	Arsenic Acid 75%

TABLE 2.—REGISTRATIONS WITH REQUESTS FOR CANCELLATION OF PRODUCTS

Registration Number	Product Name
62190-5	WolmanacR Concentrate 70%
62190-11	CCA Type C 50% Chromated Copper Arsenate

Table 3 below includes the names and addresses of record for all registrants of the products in Tables 1 and 2.

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY TERMINATION OF USES AND/OR CANCELLATION OF PRODUCTS

EPA Company No.	Company Name and Address
003008	Osmose, Inc. 980 Ellicott Street Buffalo, NY 14209
010465	Chemical Specialties, Inc. One Woodlawn Green, Suite 250 200 E. Woodlawn Road Charlotte, NC 28217
035896	Phibro-Tech, Inc. One Parker Plaza Fort Lee, NJ 07024
062190	Arch Wood Protection, Inc. 1955 Lake Park Drive, Suite 250 Smyrna, GA 30080

IV. What is the Agency's Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that a pesticide registration of the registrant be canceled or amended to terminate one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Provisions for Disposition of Existing Stocks

In any order issued in response these requests for amendment to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1:

All distribution, sale, and use of existing stocks of affected manufacturing-use and end-use products will be unlawful under FIFRA effective December 31, 2003, except for purposes of shipping such stocks for relabeling or repackaging, export consistent with the requirements of section 17 of FIFRA, or proper disposal, unless such stocks have been relabeled or repackaged in a manner that is consistent with this order.

In any order issued in response to the above-noted a request for cancellation of a product registration, the Agency proposes to not grant any period of time

for disposition of existing stocks of the products for which cancellation was requested as identified or referenced in Table 2.

List of Subjects

Environmental protection, Pesticides and pests

Dated: February 15, 2002.

Frank Sanders,

Director, Antimicrobial Division, Office of Pesticide Programs.

[FR Doc. 02-4306 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7145-7]

Privacy Act of 1974: Republication of Existing System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice; Amendment to notice of privacy act system of records.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the existing Privacy Act system of records.

EFFECTIVE DATES: The proposed amendments will be effective upon publication.

ADDRESSES: Send written comments to Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460; Telephone (202) 260-6131.

SUPPLEMENTARY INFORMATION: This section summarizes the changes to each existing system of records. The summaries focus on alternations in name or function, changes in routine uses, and other major changes. Each summary includes the name of the contact person for the system who provided information for this report.

To the greatest extent possible, the old system numbers have been retained for new systems. Thus, old EPA-1 (Payroll System) remains as EPA-1. In some instances, the system number remains the same even though the name of the system has been updated. Systems number not in current use remain unused under the revisions. There was no old number 6, and there is no new number 6. Numbers for systems proposed for deletion will not be reused. Old number 16, which was used by two existing systems, will not be reused. One old number 16 is obsolete,

and the other is renumbered. New systems and systems that have been substantially revised (e.g., OIG systems) are assigned new numbers beginning with 38.

All revised system notices reflect appropriate changes in location and office name. Routine uses for all systems now refer to the General Routine Uses Applicable to More than One System of Records, and this entailed some revisions. The revisions standardize the sections of most system notices for notification, record access, and contesting record procedures. The description of storage and retrieval policies and practices reflect the use of computer technology as appropriate for each system. The new notices also include appropriate editorial changes.

Dated: October 25, 2001.

Margaret Schneider,

Acting Assistant Administrator, Office of Environmental Information.

General Routine Uses Applicable to More than One System of Records

A. Disclosure for Law Enforcement Purposes

Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information

Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency

Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request

supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget

Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

E. Disclosure to Congressional Offices

Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice

Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof; or
2. Any employee of the Agency in his or her official capacity; or
3. 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
4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives

Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others

Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the

Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints, and Appeals

Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management

Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection with Litigation

Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

EPA-1

SYSTEM NAME:

EPA's Payroll and Personnel System (EPAYS).

SYSTEM LOCATION:

National Computer Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; other EPA offices. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former EPA employees; Surface Transportation Board (formerly the Interstate Commerce Commission, Department of Transportation); and Health and Human Services Public Health Service Commissioned Officers.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

This system contains records relating to pay, cash awards, and leave. This includes, but is not limited to, information such as names, date of birth, social security numbers, home addresses, grade, employing organization, salary, pay plan, number of hours worked, overtime, compensatory time, leave accrual rate, usage, and balances, Civil Service Retirement and Federal Retirement System contributions, including Thrift Savings Plan, FICA withholdings, Federal, state, and city tax withholdings, Federal Employee Group Life Insurance withholdings, Federal Employee Health Benefits withholdings, charitable deductions; allotments to financial organizations, garnishment documents, savings bonds allotments, union dues withholdings, deductions for Internal Revenue Service levies, court ordered child support levies, Federal salary offset deductions, and information on the Leave Transfer Program and the Leave Bank Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 5101 *et seq.*; 5 U.S.C. 5501 *et seq.*; 5 U.S.C. 5525 *et seq.*; 5 U.S.C. 5701 *et seq.*; 5 U.S.C. 6301 *et seq.*; 31 U.S.C. 3512; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

The records are used to administer EPA's pay and leave requirements, including processing, accounting and reporting requirements. (Date of last system revision: 2/1/01).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, J, and K apply to this system. Records may also be disclosed:

1. To the Department of Treasury to issue checks, make payments, make electronic funds transfers, and issue U.S. Savings Bonds.
2. To the Department of Agriculture National Finance Center to credit Thrift Savings Plan deductions and loan payments to employee accounts.
3. To the Department of Labor in connection with a claim filed by an

employee for compensation due to a job connected injury or illness.

4. To the Internal Revenue Service; Social Security Administration; and State and local tax authorities in connection with the withholding of employment taxes.
5. To State Unemployment Office in connection with a claim filed by former employees for unemployment benefits.
6. To the officials of labor organizations as to the identity of employees contributing union dues each pay period and the amount of dues withheld from each employee.
7. To the Office of Personnel Management and to Health Benefit carriers in connection with enrollment and payroll deductions.
8. To the Office of Personnel Management in connection with employee retirement and life insurance deductions.
9. To Combined Federal Campaign in connection with payroll deductions for charitable contributions.
10. To the Office of Management and Budget, and Department of Treasury to provide required reports on financial management responsibilities.
11. To provide information as necessary to other Federal, State, local or foreign agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals. When disclosures are made as part of computer matching programs, EPA will comply with the Computer Matching and Privacy Protection Act of 1988.
12. To the Internal Revenue Service in connection with withholdings for tax levies.
13. To the Social Security Administration and the Department of Health and Human Services to provide information on newly hired employees for child support enforcement Purposes.
14. To the Department of Health and Human Services in connection with the master personnel and payroll files for their Public Health Services Officers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Computer systems, tapes, disks, microfiche and other hard copy formats. Mainframe computers, tapes, and disks are located in Research Triangle Park, North Carolina. Backup tapes are maintained at a disaster recovery site.

RETRIEVABILITY:

Primarily by social security number. Employee name is used as a secondary identifier.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Employee records are retained on magnetic tapes for an indefinite period. Microfiche and manual reports are maintained for varying periods of time, at which time they are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager(s) and Address.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, supervisors, consumer reporting agencies, debt collection agencies, Department of Treasury, and other Federal agencies.

EPA-3**SYSTEM NAME:**

Wellness Program Medical Records.

SYSTEM LOCATION:

Health Unit, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. EPA offers medical services to employees through a national agreement with the Federal Occupational Health Service of the Public Health Service. Most EPA regional offices have a similar arrangement, although a different contractor provides services in one or more regional offices. See the appendix

for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees, contract employees, and EPA visitors requiring or requesting medical attention and EPA employees participating in Stress Lab.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee health records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 7901 *et seq.*

PURPOSE(S):

To document health treatments and related services offered by the Health Unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses F, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files (handwritten or typed cards, forms, files, and EKG graphs); some identifying information is also maintained on a computerized index.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained until an employee leaves EPA. Records are sealed and sent to the Personnel Office for inclusion in the official personnel folder, which is sent to a federal records center. Records may be transferred to a new federal employer.

SYSTEM MANAGER(S) AND ADDRESS:

National Program Branch Chief, Safety, Health and Environmental Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a

record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16. Pursuant to 5 U.S.C. 552a(f)(3), records relating to psychiatric matters may be made available to a record subject through a physician.

RECORD SOURCE CATEGORIES:

Patients, patient's doctors, on approval of patient, accident/incidence reports, family members of patients, and past Federal employer medical records.

EPA-9

SYSTEM NAME:

Freedom of Information Act Request and Appeal File.

SYSTEM LOCATION:

(1) Freedom of Information Section, Office of the Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

(2) EPA Regional Offices. See the appendix for addresses of regional offices.

(3) EPA, Office of General Counsel, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

All persons requesting information or filing appeals under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

A copy of each Freedom of Information Act request received and a copy of all correspondence related to the request, including name, affiliation address, telephone numbers, and other information about a requester. A computerized index includes the name and affiliation of each requester, the request identification number, and the subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 552.

PURPOSE(S):

To respond to FOIA requests and to prepare reports on FOIA activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H and K apply to this system. Records may also be disclosed:

1. To another Federal agency (a) with an interest in the record in connection with a referral of a Freedom of Information Act (FOIA) request to that agency for its views or decision on disclosure, or (b) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence that may be useful to EPA in making required determinations under the FOIA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders. An index is maintained in a computer database.

RETRIEVABILITY:

By name of requester and request identification number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained in accordance with EPA Records Control Schedules.

SYSTEM MANAGER(S) AND ADDRESS AND ADDRESS:

Director, Office of Executive Secretariat, Freedom of Information Section, Office of the Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed

and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Incoming Freedom of Information Act requests and related correspondence from the record subject; EPA offices.

EPA-10

SYSTEM NAME:

EPA Parking Control Office File.

SYSTEM LOCATION:

Transit Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Some regional and other EPA offices may also maintain parking records. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals holding parking permits from EPA, including individuals in existing carpools whose principal member is an EPA employee. Other carpool members may be employed by other Federal agencies or private industry.

CATEGORIES OF RECORDS IN THE SYSTEM:

Permit applications, permit numbers, EPA Form 5160.1, including name, social security number, home and work address, home and work telephone numbers of EPA employees holding parking permits, the name and address of carpool members, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

EPA Administrative Services Manual, Chapter 11, dated April 23, 1975; 41 CFR 101-20.104.

PURPOSE(S):

To manage parking control and the carpool system, and to enforce parking regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General Routine Uses A, E, F, G, H, I, and K apply to this system.

RECORDS MAY ALSO BE DISCLOSED:

1. To the public through a carpool matching system. Disclosures are limited to the name, telephone number, and zip code of carpool members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computer database and in file folders.

RETRIEVABILITY:

Principally by name, permit number, and zip code.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained for three years after the expiration of the contract with the contractor for the system.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Transit Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA-14

SYSTEM NAME:

OPP Time Accounting Information System.

SYSTEM LOCATION:

Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Most current and past Office of Pesticide Programs (OPP) employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

OPP employee names, employee identification numbers, hours worked during each pay period, and work-activity classification for each pay period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Pub. L. 95-396, 92 Stat. 838, 7 U.S.C. 136y.

PURPOSE(S):

The records are used as a data source for management information to produce summary descriptive statistics and analytical studies reflecting the OPP allocations of costs and work-hours by budget decision unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, I, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On time sheets and in a computerized database.

RETRIEVABILITY:

By employee number, name, and organization.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Paper forms are kept for three years and are then shredded. Computer records may be kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Resource Management Staff, Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

See Contesting Record Procedures.

RECORD ACCESS PROCEDURES:

See Contesting Record Procedures.

CONTESTING RECORD PROCEDURES:

Any individual who wants to know whether this system of records contains

a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager(s) and Address. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances. Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA-19

SYSTEM NAME:

EPA Identification Card Record.

SYSTEM LOCATION:

1. Facilities Management and Services Division, Security and Property Management Branch, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460;
2. Regional and other EPA offices. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees and EPA contact employees and grantees who require access to EPA buildings and offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. EPA Form 5110-1, EPA Identification Card Acknowledgment which contains the following information: Name, EPA identification card number, height, weight, color of eyes/hair, date of birth, social security number, position title, grade, EPA office location, signature, date of issuance, and a photograph of the person issued the identification card.
2. EPA Form 1480-39, Official U.S. Government Identification, which contains the following information: Name, social security number, location, date of birth, height, weight, color of eyes/hair, signature, card number, date of issuance and photograph of person issued the identification card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c).

PURPOSE(S):

To issue official U.S. Government Identification cards to EPA employees and EPA contract employees requiring

access to EPA buildings and offices; to maintain a record of all holders of identification cards, for renewal and recovery of expired cards, and to identify lost or stolen cards; to identify Headquarters employees whose names have not been entered in the EPA locator system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage: Older records are stored in file folders in file cabinets. Newer records are stored on a standalone computer database.

RETRIEVABILITY:

By name of the data subject.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are destroyed three months after termination of employment or severance of association with EPA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Chief, Security and Property Management Branch, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460; Other locations: General Services Manager at offices listed in the Appendix.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought.

Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA personnel records.

EPA-20

SYSTEM NAME:

Toxic Substances Control Act Confidential Business Information Records Access System.

SYSTEM LOCATION:

Office of Pollution Prevention and Toxics, Information Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA and other Federal agency employees and Office of Pollution Prevention and Toxics contractor employees who are or have ever been authorized for access to Toxic Substances Control Act Confidential Business Information (TSCA CBI).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains basic identification information such as name, social security number, EPA identification card number, date and place of birth, office of contractor for which the individual works and telephone number. In addition, the system contains information pertinent to TSCA CBI access such as security briefing date, date added to system, date deleted from system and type of access authorized.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

PURPOSE(S):

To maintain a record of those persons cleared for access to TSCA CBI and to maintain the security of TSCA CBI.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To other Federal agencies when they possess TSCA CBI and need to verify clearance of EPA, other Federal agency and EPA contractor employees for access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Current records are maintained in a computer database. Some older records are maintained in hard copy files.

RETRIEVABILITY:

From the computer database by addressing any type of data contained in the database, including name. From alphabetized hard copy files by name.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in safes. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Information in this system is maintained and updated for so long as individuals identified in the system are authorized for access to TSCA CBI.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects provide identification information. EPA personnel add information about dates and type of access authorized.

EPA-22

SYSTEM NAME:

National Correspondence Tracking and Information Management System.

SYSTEM LOCATION:

Office of the Executive Secretariat, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Most EPA offices, including regional offices, access and maintain some records in this system. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons from the private sector, White House staff, and other persons from the public sector (Federal, state and local) who send correspondence to the Administrator, Deputy Administrator, or to other EPA offices and regions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Controlled correspondence, including name and address of correspondent, copies of incoming letter, EPA's response, and correspondence control number when assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 301.

PURPOSE(S):

To respond to correspondence requiring correspondence controls from the public and private sectors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, J, and K apply to this system. Records may be also disclosed:

1. To a Federal, State or local agency when a response by that agency rather than EPA is more appropriate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and computer database.

RETRIEVABILITY:

By the name of the individual correspondent and the correspondence control number when assigned. Computer records can also be retrieved by other data fields.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Some controlled correspondence records are permanent. Correspondence from Division Directors and below is

retained for ten years. All other correspondence records are destroyed when five years old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of the Executive Secretariat, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA offices that prepared the response.

EPA-23

SYSTEM NAME:

EPA Credential Information Records.

SYSTEM LOCATION:

Office of Inspector General credential records: Office of the Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460; All other credential records: Security and Property Management Branch, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees who are required to carry credentials that identify the bearer as having the authority to act in an official enforcement, inspection, or investigative capacity.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains all or part of the following information: Name of individual, title, grade, position, location, credential number, expiration date, date issued, status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c).

PURPOSE(S):

To issue official EPA credentials to designated Agency employees who are required to carry credentials to identify them as having the authority to act in an official enforcement, inspection, or investigative capacity; to maintain a record of all holders of credentials, for renewal and recovery of expired credentials, and to identify lost or stolen credentials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To any person in response to a request to verify the credentials of an EPA employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

File folders and computer database.

RETRIEVABILITY:

By name, credential number, or location of the data subject.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are destroyed three months after separation or revocation of credential.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Inspector General credential records: Assistant Inspector General for Management, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. All other credential records: Chief, Security and Property Management Branch, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a

record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and the offices preparing credentials.

EPA-24**SYSTEM NAME:**

Claims Office Master Files.

SYSTEM LOCATION:

Office of General Counsel, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Claims Office Master Files (COMF) contains claim records affecting individuals in six categories. COMF-TOR is composed of records covering individuals filing claims under the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, for money damages for injury, death or damage caused by the negligence or wrongful acts or omissions of employees of EPA. COMF-FCC is comprised of records covering individuals who are indebted to EPA and against whom EPA has initiated actions under the Federal Claims Collection Act, as amended, 31 U.S.C. 3711 *et seq.* COMF-MCE is composed of records covering individuals making claims for loss or damage to personal property under the Military Personnel and Civilian Employees Claims act, 31 U.S.C. 3721. COMF-WAV is composed of records covering individuals requesting waiver under 5 U.S.C. 5584 of claims for erroneous payments of salary or transportation expenses. COMF-GAR is composed of records covering EPA employees whose salaries are garnished under 42 U.S.C. 659, 661-662 for alimony, child support, or commercial garnishments. COMF-RCD is composed of records covering individuals claiming reimbursement of collision deductible payments on rental vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. COMF-TOR contains records relating to tort claims against EPA. It may contain administrative claims, investigative reports, witness statements, certifications of scope of employment, damage estimates, medical records, letters to claimants, claimant responses, the Agency final decision on claims, and other records concerning tort claims. COMF-FCC contains documents relating to debts owed EPA by individuals, corporations, State and local governments, and Indian tribes. It may include documents which evidence the debt (*e.g.*, audit reports, travel voucher, consent decrees, etc.), demand letters, debtor responses, credit reports, information obtained from private collection agencies, and other records concerning debt claims. It may contain the social security numbers of individual debtors to the extent such numbers are contained in travel vouchers or other documents upon which the debt is based.

2. COMF-MCE contains records relating to employee claims for loss or damage to personal property. It may contain administrative claim forms, investigative reports, supervisor's reports, accident reports, documentation of the amounts claimed as damages, the Agency final action on claims, and other records concerning employee property claims.

3. COMF-WAV contains records relating to employee requests for waiver by the Government of claims for erroneous payment of salary or travel expenses. It may contain employee request for waiver forms, investigative reports and recommendations, certifications of the amount of overpayment, personnel records relevant to overpayments, evidence of the Government's final action on the request, and other records concerning waiver requests. The social security number of the employee is contained in the file.

4. COMF-GAR contains legal documents supporting the garnishment of the salary of EPA employees. It may include the order of garnishment or attachment, notices to the employee of garnishment, responses by the employee, payroll information, and other records concerning garnishment requests. The social security number of the employee may be contained in the file.

5. COMF-RCD contains records required to settle claims against EPA employees for rental car damage deductible claims. It may contain rental agreements, accident reports, damage estimates, employee requests for reimbursement, travel vouchers,

correspondence with rental car companies, evidence of the Agency final action on the claim, and other records concerning rental car deductible claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

COMF-TOR: 28 U.S.C. 2671 *et seq.* and 40 CFR part 10.

COMF-FCC: 31 U.S.C. 3711 *et seq.* and 4 CFR parts 101–105.

COMF-MCE: 31 U.S.C. 3721 and 40 CFR part 14.

COMF-WAV: 5 U.S.C. 5584 and 4 CFR parts 91–92.

COMF-GAR: 42 U.S.C. 659, 661–662 and 5 CFR part 581.

COMF-RCD: 5 U.S.C. 5704.

PURPOSE(S):

To assist the EPA Claims Office in managing its receipt, tracking, processing, and resolution of claims and to assist the Department of Justice and EPA in final resolution of claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, J, and K apply to this system. Records may also be disclosed:

1. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning a claim by or against an employee.

2. Records maintained in the COMF-FCC subsystem may be disclosed to commercial collection agencies under contract with EPA, as provided by 31 U.S.C. 3718 and 40 CFR part 13, for collection Purpose(s).

3. Records maintained in the COMF-RCD subsystem may be disclosed to rental car companies as part of EPA's resolution of claims by the rental car companies for damage.

4. Records maintained in COMF-RCD may be disclosed to Federal agencies where relevant to their involvement in the rental agreement or claims arising from it.

5. Records maintained in the COMF-GAR subsystem may be disclosed to the State agency responsible for child support and/or alimony collection and enforcement, and for enforcing commercial garnishment orders.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from records maintained in the COMF-FCC subsystem to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3701(a)(3)(B)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders in file cabinets within the Claims Office. Records are accessible through computer indexes maintained in the Claims Office.

RETRIEVABILITY:

By the name of the person, corporation, local or state government or Indian tribe, and the assigned claim number. This information is maintained in computer indexes within the Claims Office.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

COMF records are retained for ten (10) years. A resolved claim is retained within the Claims Office for five (5) years then transferred to the Federal Records Center where it is retained for an additional five (5) years. The record is destroyed by the Federal Records Center at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

EPA Claims Officer, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA employees in their official capacities. Other sources are:

COMF-TOR—local police authorities and witnesses;

COMF-FCC—private collection agencies and credit bureaus, other Federal agencies, local officials and State employees;

COMF-MCE—law enforcement and security personnel;

COMF-GAR—State court authorities and garnishers;

COMF-RCD—rental car companies and automobile repair companies.

EPA-27

SYSTEM NAME:

Employee Counseling and Assistance Program Records.

SYSTEM LOCATION:

Career Resource & Counseling Center, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. EPA offers counseling services to employees at regional offices through a national agreement with the Public Health Service. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees who seek, are referred to, and/or receive assistance through the Agency Employee Counseling and Assistance Program in connection with personal or work related problems, including, but not limited to, problems related to alcohol and/or drug abuse.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of employees who have been counseled or otherwise assisted. Information which may be found in this record system includes the employee's name, location within the Agency, sex, age, race, office telephone number, grade, job title and series; problem assessment, recommended treatment, referral source and client status; notes about counseling sessions made by the counselor; copies of admonishments and reprimands received by the employee; copies of performance appraisals received by the employee; copies of performance appraisals; and documentation of treatment from therapists, physicians, rehabilitation treatment centers and other outside private or community resources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

42 U.S.C. 290dd–1, 290ee–1; 5 U.S.C. 7901; Executive Order 12564 (Sept. 15, 1986).

PURPOSE(S):

To counsel EPA employees who are experiencing personal or work related

problems, including alcohol and drug abuse problems, which may affect their work performance; to document the nature of the employee's problem and the progress made, to record an employee's participation in and the results of community or private sector treatment or rehabilitation programs, and, with the employee's consent, to coordinate with appropriate supervisory or management officials concerning the progress of the employee's rehabilitation; to conduct scientific research, management and financial audits and program evaluations, but individual employees shall not be identified in any resulting reports, audits, or evaluations nor their identities further disclosed in any manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses F and H apply to this system. Disclosure of records pertaining to an employee's alcohol or drug abuse is restricted under the provision of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

By the names of the client employees and by client numbers cross-indexed by names.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

ECAP records are retained until three years after termination of counseling or until the individual leaves the EPA and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Career Resource and Counseling Center, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a

record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, a record subject's family, sources to whom a record subject has been referred for assistance, supervisors and other EPA officials, agency health unit, and ECAP counselors.

EPA-29

SYSTEM NAME:

EPA Travel, Other Accounts Payable, and Accounts Receivable Files.

SYSTEM LOCATION:

National Computer Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; other EPA offices. See the appendix for addresses of regional and other offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals who owe monies to and individuals who are owed monies from the Environmental Protection Agency are covered by the system. This includes, but is not limited to, monies owed to EPA for refunds, penalties, travel advances, Interagency Agreements, or Freedom of Information Requests. This system also contains information on corporations and other entities that are in debt to EPA. Records on corporations and other entities are not subject to the Privacy Act. This system also includes monies owed by EPA to Agency employees, consultants, private citizens, and others who travel or perform other services for EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is composed of an accounts receivable module and travel and other accounts payable modules. The system contains personal identifying information such as names, addresses, and Social Security numbers of persons indebted to or owed money by EPA. The accounts receivable module contains information about the nature of the debt or claim, the amount

owed, the history status of the debt, and information that relates to and documents efforts to collect debts owed the Agency. The travel and other accounts payable modules contain information about the travel authorization; travel vouchers, which support the claim for the reimbursement to the travel; travel advance authorizations, which provide fund advances to pay travel expenses incurred in the performance of official government business; and finally itemized invoices for other services performed for EPA. In both modules, banking information necessary to support electronic funds transfers may be maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511-3513; 5 U.S.C. 5514; 31 U.S.C. 3702; 31 U.S.C. 3711 *et seq.*; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

Records in the accounts receivable module are used primarily to create a record of, and track, all accounts receivable and to assist EPA in collecting debts owed the Agency. Records in the travel and other accounts payable modules are used primarily to create a record of and to track all monies owed by the EPA for authorized travel and for other services performed for EPA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To Union representatives when relevant and necessary to their duties as exclusive bargaining agents under the Civil Service Reform Act of 1978, 5 U.S.C. 7111, 7114.
2. To the Office of Management and Budget, and Department of Treasury for Purpose(s) of carrying out EPA's financial management responsibilities.
3. To the Defense Manpower Data Center of the Department of Defense, U.S. Postal Service, Department of the Treasury, Justice Department or other federal agencies for the Purpose(s) of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under programs administered by EPA. The Purpose(s) of the disclosure is to collect the delinquent debts by voluntary repayment, administrative, salary, tax refund offset procedures, or through litigation. When disclosures are made as part of computer matching programs,

EPA will comply with the Computer Matching and Privacy Protection Act of 1988.

4. To provide debtor information to consumer reporting agencies in order to obtain credit reports for use by EPA for debt collection Purpose(s) and to report delinquent debts.

5. To provide debtor information to debt collection agencies under contract to EPA to help collect debts owed EPA. Debt collection agencies will be required to comply with the Privacy Act and their agents will be made subject to the criminal penalty provisions of the Act.

Note: The term "debtor information" as used in the routine uses above is limited to the individual's name, address, social security number, and other information necessary to identify the individual; the amount, status and history of the claim; and the agency or program under which the claim arose.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosure may be made to a consumer reporting agency 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)(30)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On computer systems, tapes, disks, microfiche, and other hard copy formats. The mainframe and the computer tapes and disks are located in Research Triangle Park, North Carolina. Backup tapes are maintained at a disaster recovery site.

RETRIEVABILITY:

Accounts receivable module records are indexed by account receivable control number (a number assigned to each "incoming" account receivable). Individual records can be accessed by using a cross reference table which links accounts receivable control numbers with debtors names and associated debtor information. Travel and other accounts payable module records are retrievable by name and social security number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are maintained for at least two years. In some cases depending on program needs, records may be maintained for a longer period. Manual records are ultimately transferred to a Record Center where they are kept until disposed of in accordance with record disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Office of the Comptroller, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contain a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, supervisors, consumer reporting agencies, debt collection agencies, the Department of the Treasury and other Federal agencies.

EPA-30

SYSTEM NAME:

OIG Hotline Allegation System.

SYSTEM LOCATION:

Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who report information to the Office of Inspector General (OIG) concerning the possible existence of activities constituting a violation of law, rules, or regulations, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety, and the subject of the complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complainants who report indications of wrongdoing; name and address of the complainant (except for anonymous complainants), date complaint received, program area, nature and subject of complaint, any additional contacts and specific comments provided by the complainant; information on the OIG disposition of the complaint, including investigative case number, preliminary inquiry number, dates of referral, reply, and follow-up, and status and disposition code of the complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Inspector General Act of 1978, 5 U.S.C. app. 3; and 5 U.S.C. 301.

PURPOSE(S):

To conduct and supervise OIG audits and investigations relating to programs and operations of the EPA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To any source, private or public, to the extent necessary to secure from such source information relevant to a legitimate EPA investigation, audit, decision, or other inquiry.
2. To a Federal agency responsible for considering suspension or debarment action where such record would be relevant to such action.
3. To the Department of Justice to obtain its advice on Freedom of Information Act matters.
4. In response to a lawful subpoena issued by a Federal agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files and a computer database.

RETRIEVABILITY:

By case number, complainant or subject name, and subject matter.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Inspector General Records, approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Mission Systems, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

RECORD ACCESS PROCEDURE:

To the extent permitted under the Privacy Act of 1974, 5 U.S.C. 552a(k)(2), this system has been exempted from the provisions of the Privacy Act of 1974 that permit access and correction. However, EPA may, in its discretion, fully grant individual requests for access and correction if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. The exemption from access is limited in some instances by law to information that would reveal the identity of a confidential source.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Complainants who are employees of EPA; employees of other Federal agencies; employees of state and local agencies; and private citizens. Records in the system come from complainants through the telephone, mail, personal interviews, and Internet Web Site. Because security cannot be guaranteed on the Internet site, complainants are advised that information they provide through the Internet site may not be confidential.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4)(G); (e)(4)(H); and (f)(2) through (5).

EPA-31**SYSTEM NAME:**

Acquisition Training System.

SYSTEM LOCATION:

Office of Acquisition Management, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS IN SYSTEM:

EPA employees performing contract management who are subject to the Agency certification program and who are certified, as set forth in Chapter 7 of the EPA Contracts Management Manual.

CATEGORIES OF RECORDS IN SYSTEM:

Training records for the EPA contract manager certification program, including an individual's training history, name, title, organization, mail code, business address, work phone number, employee number, previously contract management courses, course completion dates, and interim certification status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Office of Federal Procurement Policy Act of 1974, 41 U.S.C. 414.

PURPOSE(S):

To assure a proficient contract management workforce by identifying EPA employees who are eligible to be or have been certified as Contract Managers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Computer database and hardcopy files.

RETRIEVABILITY:

From the computer database by an employee's name or office mail code; from hardcopy files by an employee's name and date of training.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records may be deleted from the Acquisition Training System upon the employee's separation from the Agency.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Acquisition, Training, and Oversight Service Center, Office of Acquisition Management, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and EPA acquisition management officials.

EPA-32**SYSTEM NAME:**

EPA Telecommunications Detail Records.

SYSTEM LOCATION:

National Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees, contractors, grantees, and other persons performing services on behalf of the EPA who use telecommunications services charged to EPA.

CATEGORIES OF RECORDS IN SYSTEM:

Records relating to the use of EPA telecommunications services (e.g.,

telephone calls, video conference, 800 number calling, satellite downlinks, credit card calls), records indicating the assignment of telephone numbers to personnel, and records indicating the location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

31 U.S.C. 1348(b).

PURPOSE(S):

To aid in planning its future telecommunications needs, and to control telecommunications costs by ensuring that facilities are used only for official Purpose (s) and by determining individual accountability for telephone usage.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To a telecommunications company and/or the General Services Administration who are providing telecommunications support to verify billing or perform other servicing to the account.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Mainframe computer, computer tapes, and other computer media.

RETRIEVABILITY:

By originating and destination telephone numbers, responsible individuals, call date, call time, call duration, destination city and state, and calling charge.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the National Archives and Records Administration, General Records Schedule 12.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants

access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

(1) EPA employees, contractors, grantees, and other persons who are performing services on behalf of the EPA, (2) EPA telephone assignment and Locator records, (3) GSA and other phone companies, and (4) EPA-owned Private Branch Exchange systems.

EPA-33

SYSTEM NAME:

Debarment and Suspension Files.

SYSTEM LOCATION:

Office of Grants and Debarment, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460, and Regions 1 through 10 which recommend suspension and debarment action. See the appendix for the address of regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been suspended, proposed for debarment, or debarred from Federal procurement and assistance programs and individuals who have been the subject of agency inquiries to determine whether they should be debarred and/or suspended from Federal procurement and assistance programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include information on individuals and firms excluded or considered for exclusion from Federal acquisition or assistance programs as a result of suspension or debarment proceedings initiated by EPA. Such information includes, but is not limited to, names and addresses of individuals covered by the system of records, evidence obtained in support of Action Referral Memoranda and Case Closure Memoranda, interim decisions, compliance agreements, audits of compliance agreements, and final

determinations. Examples of evidence contained in files include correspondence, inspection reports, memoranda of interviews, contracts, assistance agreements, indictments, judgment and conviction orders, plea agreements, and corporate information. Evidence may include documents containing individuals' Social Security Numbers. Computer generated records include data regarding categories and status of cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Property and Administrative Services Act of 1949, 41 U.S.C. 251 *et seq.*; Office of Federal Procurement Policy Act, 41 U.S.C. 401 *et seq.*; Executive Order 12549 (Feb. 18, 1986); and Executive Order 12689 (Aug. 16, 1989).

PURPOSE(S):

To assist EPA in assembling information on, conducting, and documenting debarment and suspension proceedings to ensure that Federal contracts and Federal assistance, loans, and benefits are awarded to responsible business entities and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To the General Services Administration (GSA) to compile and maintain the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" in accordance with FAR 9.404 and 40 CFR 32.500 and 32.505.

2. To organizations suspended, proposed for debarment or debarred in EPA proceedings; to the legal representatives of such organizations; and to the legal representatives of individuals suspended, proposed for debarment or debarred in EPA proceedings.

3. To a Federal, state, or local agency, financial institution, or other entity to verify an individual's eligibility for engaging in a covered transaction as defined at 40 CFR 32.200.

4. To Federal, state, or local agencies, in response to requests or subpoenas, or otherwise, for the Purpose (s) of; (a) assisting them in administering Federal acquisition, assistance, loan and benefit programs or regulatory programs, (b) assisting them in discharging their duties to ensure that Federal contracts and assistance, loans, and benefit programs are awarded to responsible individuals and organizations, and (c)

ensuring that Federal, state or local regulatory responsibilities are met.

5. To the public, upon request, and to publishers of computerized legal research systems, but such disclosures shall be limited to interim or final decisions and settlement agreements.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, computer databases, and other electronic media.

RETRIEVABILITY:

By name of the firm or individual and by file number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained in accordance with EPA's Assistance and Interagency Agreement Records Schedule, NC1-412-85-25/7. Investigative and advocacy files are destroyed after the issuance of a final determination or entry of a compliance agreement. Audit files are retained throughout the term of the relevant compliance agreement. The official administrative record is retained in the office until three months after the period of debarment or voluntary exclusion expires, or all provisions of the compliance agreement have been completed. The official administrative record is then transferred to the Federal Records Center (FRC) for storage. Files relating to cases closed without action are also transferred to the FRC three months after the decision to close the matter. The records transferred to the FRC are destroyed when they are 6 years and 3 months old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Grants and Debarment, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a

driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

EPA and other Federal officials, state and local officials, private parties, businesses and other entities who may have information relevant to an inquiry, and individuals who have been suspended, proposed for debarment or debarred, and their legal representatives.

EPA-34

SYSTEM NAME:

Medical and Research Study Records of Human Volunteers.

SYSTEM LOCATION:

Human Studies Facility, Human Studies Division, National Health and Environmental Effects Research Laboratories, Office of Research and Development, Environmental Protection Agency, 104 Mason Farm Road, Chapel Hill, NC 27599.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who volunteer for participation in EPA-sponsored, human studies research, whether or not they are accepted for participation, and individuals who participate in the research.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, telephone numbers of individual volunteers; individual vital statistics; medical histories; psychological profiles; results of laboratory tests; results of participation in specific research studies; and related records pertinent to the human subject research program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Resource Conservation and Recovery Act, 42 U.S.C. 6981; Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9660; Clean Air Act, 42 U.S.C. 7403; Safe Drinking Water Act, 42 U.S.C. 300j-1; Federal Water Pollution Control Act, 33 U.S.C. 1254; Toxic Substances Control Act, 15 U.S.C. 2609; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136r.

PURPOSE(S):

To support the EPA regulatory process by providing scientific information on the health effects of environmental pollutants; to screen volunteers to protect them from unnecessary health risks, to document their medical condition, and to document the specific research activities in which the subjects participated.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses D, E, F, H, and K apply to this system. Records may also be disclosed:

1. To scientists at governmental or private institutions, research centers, or businesses who assist with EPA research projects or who conduct related research (normally peer reviewed and institutional review board approved) that can benefit from access to EPA research records.

2. To public health authorities in conformity with federal, state, and local laws when necessary to protect the public health. Individuals whose records might be disclosed under this authority are normally notified of the possibility of disclosure through informed consent agreements.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, on index cards, and in an electronic database. Some records may also be stored off site in a secure facility maintained by a contractor to the EPA Human Studies Division.

RETRIEVABILITY:

By name and by identifying numbers assigned for each project.

SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

The records are permanently maintained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Studies Facility, Human Studies Division, National Health and Environmental Effects Research Laboratories, Office of Research and Development, Environmental Protection Agency, 104 Mason Farm Road, Chapel Hill, NC 27599.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Research subjects. Medical records of a research subject may be obtained occasionally with the consent of the research subject.

EPA-35**SYSTEM NAME:**

EPA Transit and Guaranteed Ride Home Program Files.

SYSTEM LOCATION:

Transportation Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Records may also be maintained in regional offices. See the appendix for the address of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees apply for and participate in the EPA Transit Subsidy Program and the Guaranteed Ride Home Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, home address, grade level, office address and phone number, current and proposed commuting pattern, estimated monthly commuting cost, certification and recertification forms, and other information related to carrying out activities under the transit subsidy program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Employees Clean Air Incentives Act, 5 U.S.C. 7905; and Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

To manage the EPA Transit Subsidy Program, including receipt and processing of employee applications and distribution of the fare media to employees; to track the use of appropriated funds used to support the program; and to evaluate employee participation in the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routines uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To federal, state, or local agencies to detect unauthorized payments, fraud and abuse, or recoup improper payments in transit subsidy programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

In a computer database and in file folders.

RETRIEVABILITY:

By name and the first four digits of the social security number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained for a maximum of two years following the last month of an employee's participation in the EPA Transit Subsidy Program. Shredding destroys paper copies. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Transportation Management Section, Facilities Management and Services Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification

card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR Part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA-36**SYSTEM NAME:**

Research Grant, Cooperative Agreement, and Fellowship Application Files.

SYSTEM LOCATION:

National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (principal investigators and fellows) who request or have previously requested support from the ORD research grants programs, either individually or through an academic institution, state agency, or non-profit organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of the principal investigators, research proposals and their identifying numbers, supporting data from the academic institutions or other applicants, proposal evaluations from peer reviewers, review records, financial data, and other material related to evaluation of applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*; Clean Air Act, 42 U.S.C. 1857 *et seq.*; Federal Water Pollution Control Act, 33 U.S.C. 1254 *et seq.*; Public Health Service Act, 42 U.S.C. 241 *et seq.*; Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.*; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300j-1; Toxic Substances Control Act, 15 U.S.C. 2609, Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9660. Other laws may be relevant as well.

PURPOSE(S):

To assist EPA in conducting and documenting the receipt and review of

applications and award of research grants to the most meritorious applicants in response to solicitations issued by the Office of Research and Development in furtherance of its Science to Achieve Results (STAR) program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To qualified reviewers retained by EPA for their opinion and evaluation of applicants and their proposals as part of the application review process.
2. To other Federal government agencies and private-sector organizations regarding applicants in order to coordinate joint grant programs between Federal agencies, State or local government agencies, and/or private-sector organizations.
3. To the applicant institution to obtain data for use in reviewing applications, awarding grants, or administering grants.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic databases and hard copy files.

RETRIEVABILITY:

Electronic files may be retrieved by most data elements in the database (primarily by topic area and assistance number). Retrieval by name of principal investigator is reserved to the system manager.

SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Hard copies of awarded proposals are transferred to the Federal Records Center one year after closeout where they are retained for an additional six years. Hard copies of declined proposals are destroyed three years after they are declined.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Peer Review Division, National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Academic institutions, principal investigators, other applicants, peer reviewers, and EPA and other Federal agency personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in that subsection: 5 U.S.C. 552a(c)(3) and (d).

EPA-37

SYSTEM NAME:

ORD Peer Review Panelist Information System (PRPIS) System.

SYSTEM LOCATION:

National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Peer reviewers who may be retained by EPA to evaluate grant, fellowship, and cooperative agreement applicants and their applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of peer reviewers, supporting data about their academic institutions or other institutional affiliations, proposal evaluations from peer reviewers, review records, contract and financial data, committee or panel discussion summaries, and other agency records containing or reflecting comments on the applications or the applicants from peer reviewers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*; Clean Air Act, 42 U.S.C. 1857 *et seq.*; Federal Water Pollution Control Act, 33 U.S.C. 1254 *et seq.*; Public Health Service Act, 42 U.S.C. 241 *et seq.*; Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.*; Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*

PURPOSE(S):

To assist EPA conduct and document review of applications for research grants, cooperative agreements, and fellowships through the use of peer reviewers from the scientific community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, B, E, F, G, H, and K apply to this system.

RECORDS MAY ALSO BE DISCLOSED:

1. To Federal government agencies that cooperate with EPA in joint grant programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic database and on CD-ROM.

RETRIEVABILITY:

By the name and subject related characteristics of peer reviewers.

SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

File is cumulative and is maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Peer Review Division, National Center for Environmental Research, Office of Research and Development, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, and EPA and other Federal agency personnel.

EPA-38**SYSTEM NAME:**

Invention Reports Submitted to the EPA.

SYSTEM LOCATION:

Office of General Counsel, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Invention reports from contractors, subcontractors, grantees, and cooperative agreement recipients are submitted to and maintained on behalf of EPA by the Office of Policy for Extramural Research Administration, National Institutes of Health, Bethesda, Maryland, in the Extramural Invention Information Management System (code-named Edison).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees and employees of contractors, subcontractors, grantees, cooperative agreement recipients (40 CFR part 30), and parties to cooperative research and development agreements (15 U.S.C. 3710a) who have submitted invention reports to EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Invention reports, patent applications, patents, patent assignments, licenses, procurement requests, Government purchase orders, and other documents relevant to inventions made under EPA sponsorship.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Executive Order 9865 (June 14, 1947), Executive Order 10096 (Jan. 23, 1950), 35 U.S.C. Ch. 18 (Patent Rights in Inventions Made with Federal Assistance), 37 CFR parts 401, 404, and 501; 40 CFR part 30, 48 CFR parts 27 and 52; 15 U.S.C. 3710a.

PURPOSE(S):

Records are maintained for the Purpose (s) of documenting inventions

made under EPA sponsorship, including filing patent applications, determining rights to inventions, licensing inventions, and ascertaining inventorship and priority of invention.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To scientific personnel who possess the expertise to understand the invention and evaluate its importance to the Government and/or the public.
2. To contract patent counsel and their employees retained by the Agency for patent searching, preparation and prosecution of United States and foreign patent applications.
3. To Government agencies that we contact regarding possible use, interest in or ownership rights in our inventions.
4. To technology assistance personnel, technology evaluators, technology finders, and prospective licensees who may further make the invention available to the public through evaluation, promotion, sale, use, or publication.
5. To parties, such as supervisors of inventors, whom we contact to determine ownership rights, and to people contacting us to determine the Government's ownership.
6. To the United States and foreign Patent and Trademark Offices when we file U.S. and foreign patent applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Individual file folders in file cabinets and indexed on computer tracking system.

RETRIEVABILITY:

By inventor's name, case identification number, and patent application number or patent number.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

The records are maintained for fifteen years after completion or termination of action on the disclosed invention, such as issuance of a patent. The records are maintained at EPA for approximately three and are then sent to a Federal Records Center for the remainder of the applicable retention period.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Invention report submitters and their supervisors; other persons with knowledge of the invention or expertise in the particular area of the invention; EPA Patent Counsel; EPA contractors who have searched the invention, prepared a patent application on the invention and/or otherwise performed work relating to a patent application; and the United States and foreign patent offices.

EPA-39**SYSTEM NAME:**

Superfund Cost Recovery Accounting Information System.

SYSTEM LOCATION:

Office of the Comptroller, Office of the Chief Financial Officer, Financial Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past employees, contractors, and consultants involved in Superfund activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identification number, hours worked during pay period, work activity classification, travel expenses, and any other recoverable expense items.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607; 5 U.S.C. 301; 31 U.S.C. 3512; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

To support identification and recovery of the costs of Superfund activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, I, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

On paper and in a computerized database.

RETRIEVABILITY:

By employee number, name, organization; Superfund site, and transaction date.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Paper and computer records may be kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought.

Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

Appendices to Systems of Records Notices:**1. List Of Addresses For EPA Regional And Other Offices**

Region I: One Congress Street, Suite 1100
Boston, MA 02203.

Region II: 290 Broadway, New York, NY
10007.

Region III: 1650 Arch Street, Philadelphia,
PA 19103.

Region IV: 61 Forsyth Street, SW., Atlanta,
GA 30303.

Region V: 77 West Jackson Boulevard,
Chicago, IL 60604.

Region VI: 1445 Ross Avenue, Suite 1200,
Dallas, Texas 75202.

Region VII: 726 Minnesota Avenue, Kansas
City, KS 66101.

Region VIII: 999 18th Street, Suite 500,
Denver, CO 80202.

Region IX: 75 Hawthorne Street, San
Francisco, CA 94105.

Region X: 1200 Sixth Avenue, Seattle, WA
98101.

Other EPA offices:

New England Regional Laboratory, 60
Westview Street, Lexington, MA 02173.

Atlantic Ecology Division, 27 Tarzwell Drive,
Narragansett, RI 02882.

Criminal Investigation Division, New Haven
Resident Office, Robert Giamo Federal
Building, 150 Court Street, Room 433,
New Haven, CT 06507.

Environmental Services Division, 2890
Woodbridge Avenue, Building 10,
Edison NJ 08837.

New Hampshire Resident Office, Hampshire
Plaza, 1000 Elm Street, P.O. Box 1507,
Manchester, NH 03105.

Communications Division, Niagara Falls
Public Information Center, 345 Third
Street, Suite 530, Niagara Falls, NY
14303.

Division of Environmental Planning and
Protection, Long Island Sound Office,
Stamford Government Center, 888
Washington Boulevard, Stamford, CT
06904

Caribbean Environmental Protection
Division, Centro Europa Building, 1492
Ponce De Leon Avenue, Santruce, PR
00907.

Caribbean Environmental Protection
Division, Virgin Islands Coordinator
Office, Federal Office Building &
Courthouse, St. Thomas, VI 00802.

Criminal Investigation Division, Edison
Resident Office, 2890 Woodbridge
Avenue, Edison, NJ 08837.

Criminal Investigation Division, Buffalo
Resident Office, 138 Delaware Avenue,
Buffalo, NY 14202.

Criminal Investigation Division, Syracuse
Resident Office, Hanley Federal
Building, 100 S. Clinton Street, 9th
Floor, Syracuse, NY 13261.

Environmental Response Team Center, 2890
Woodbridge Avenue, Edison, NJ 08837.

Urban Watershed Management Branch, 2890
Woodbridge Avenue, Edison, NJ 08837.

Trenton Resident Office, US Courthouse
Annex, Room 3050, 402 East State Street,
Trenton, NJ 08608.

Office of Analytical Services and Quality
Assurance Laboratory, 701 Mapes Road,
Fort Meade, MD 20755.

Wheeling Office, 303 Methodist Building,
11th and Chapline Streets, Wheeling,
WV 26003.

Quality Assurance Office, 701 Mapes Road,
Fort Meade, MD 20755.

Chesapeake Bay Program, Annapolis City
Marina, 701 Mapes Road, Fort Meade,
MD 20755.

Annapolis Operations, 2530 Riva Road,
Annapolis, MD 21401.

Analytical Chemistry Laboratory, Building
701 Mapes Road, Fort Meade, MD 20755.

Washington Area Office, 1100 Wilson
Boulevard, Arlington, VA 22209.

Environmental Photographic Interpretation
Center, 12201 Sunrise Valley Drive, 555
National Center, Reston, VA 20192.

Criminal Investigation Division, Wheeling
Resident Office, Methodist Building,
1060 Chapline Street, Wheeling, WV
26003.

Criminal Investigation Division, Annapolis
Resident Office, 701 Mapes Road, Fort
Meade, MD 20755.

Science and Ecosystems Support Division,
980 College Station Road, Athens, GA
30605.

South Florida Office, 400 North Congress
Avenue, West Palm Beach, FL 33401.

Gulf of Mexico Program Office, Building
1103, Stennis Space Center, MS 39529.

Environmental Chemistry Laboratory,
Building 1105, Stennis Space Center, MS
39529.

Criminal Investigation Division, Jackson
Resident Office, 245 East Capitol Street,
Suite 534, Jackson, MS 39201.

National Air and Radiation Environmental
Laboratory, 540 South Morris Avenue,
Montgomery, AL 36115.

Criminal Investigation Division, Charleston
Resident Office, 170 Meeting Street,
Suite 300, Charleston, SC 29402.

National Exposure Research Laboratory, MD-
75, Research Triangle Park, NC 27711.

Air Pollution Prevention and Control
Division, Research Triangle Park, NC
27711.

Office of Air Quality Planning and Standards,
411 West Chapel Hill Street, Durham, NC
27701.

Environmental Research Laboratory, 960
College Station Road, Athens, GA.
30605.

Human Studies Division, Clinical Research
Branch, Health Effects Research
Laboratory, Mason Farm Road, Chapel
Hill, NC 27599.

Criminal Investigation Division, Charlotte
Resident Office, 227 West Trade Street,
Carillon Building, Charlotte, NC 28202.

National Health and Environmental Effects
Research Laboratory, Gulf Ecology
Division, 1 Sabine Island Drive, Gulf
Breeze, FL 32561.

National Center for Environmental
Assessment, 3200 Highway 54, Research
Triangle Park, NC 27711.

National Health and Environmental Effects

- Research Laboratory, Research Triangle Park, NC 27711.
- Office of Administration and Resources Management, 79TW Alexander Drive, Research Triangle Park, NC 27711.
- Office of Inspector General, Washington Field Division, RTP Sub Office, Catawba Building, Research Triangle Park, NC 27711.
- Area Office of Civil Rights, Building 4201, 79 Alexander Drive, Research Triangle Park, NC 27711.
- Criminal Investigation Division, Miami Resident Office, Brickell Plaza Federal Building, 909 SE First Street, Suite 700, Miami, FL 33121.
- Criminal Investigation Division, Nashville Resident Office, Cordell Hull Building, 2nd Floor, 425 5th Avenue, North, Nashville, TN 37243.
- Criminal Investigation Division, Knoxville Resident Office, 800 Market Street, Suite 211, Knoxville, TN 37902.
- Criminal Investigation Division, Louisville Resident Office, 600 Martin Luther King, Jr. Place, Louisville, KY 40202.
- RTP Financial Management Center, 79 TW Alexander Drive, Administration Building, Research Triangle Park, NC 27711.
- Criminal Investigation Division, Tampa Resident Office, 400 North Tampa Street, Rm. 3123, Tampa, FL 33602.
- Criminal Investigation Division, Jacksonville Resident Office, 325 W. Adams Street, Suite 303, Jacksonville, FL 32202.
- Eastern District Office, 25089 Central Ridge Road, Westlake, OH 44145.
- National Exposure Research Laboratory, Microbiological and Chemical Exposure Assessment Research Division, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- National Center for Environmental Assessment Office, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Emergency Response Section One, 9311 Groh Road, Gross Ile, MI 48138.
- Environmental Research Center, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- National Risk Management Research Laboratory, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- ORD Publications Office, Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Cleveland Area Office, Islander Office Park, Building One, 7550 Lucerne Drive, Suite 305, Middleburg Heights, OH 44130.
- National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105.
- Mid Continent Ecology Division, 6201 Congdon Boulevard, Duluth, MN 55804.
- Area Office of Civil Rights, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Office of Senior Official for Research and Development, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
- Research Triangle Park Financial Management Center, 79 TW Alexander Drive, Research Triangle Park, NC 22771.
- Criminal Investigation Division, Detroit Resident Office, 9311 Groh Road, Gross Ile, MI 48138.
- Criminal Investigation Division, Indianapolis Resident Office, US Courthouse, 46 East Ohio Street, Indianapolis, IN 46204.
- Great Lakes Research Station, 9311 Groh Road, Gross Ile, MI 48138.
- National Environmental Supercomputing Center, 135 Washington Avenue, Bay City, MI 48708.
- Cincinnati Financial Management Center, Cincinnati, OH 45268.
- Criminal Investigation Division, Minneapolis Resident Office, 300 South 4th Street, Minneapolis, MN 55415.
- Criminal Investigation Division, Chicago Area Office, 300 S. Riverside, Chicago, IL 60606.
- USEPA Region 6 Laboratory, Houston Branch, 10625 Fallstone Road, Houston, TX 77099.
- U.S. Mexico Border Program Office, 4050 Rio Bravo, El Paso, TX 79902.
- USEPA Underground Injection Control, Pawhuska Section, PO Box 1495, Pawhuska, OK 74056.
- Brownsville Border Office, 3505 Boca Chica, Brownsville, TX 78251.
- National Risk Management Research Laboratory, Subsurface Protection and Remediation Division, Robert S. Kerr Environmental Research Center, PO Box 1198, Ada, OK 74821.
- Criminal Investigation Division, Houston Area Office, 1919 Smith Street, Suite 925, Houston, TX 77002.
- Criminal Investigation Division, Albuquerque Resident Office, 3305 Calle Cuervo, NW, #325, Albuquerque, NM 87114.
- Criminal Investigation Division, Baton Rouge Resident Office, 750 Florida Street, Baton Rouge, LA 70801.
- Environmental Services Division, 25 Funston Road, Kansas City, KS 66115.
- Criminal Investigation Division St. Louis Area Office, 1222 Spruce, St. Louis, MO 63103.
- Criminal Investigation Division, Kansas City Resident Office, US Courthouse, 500 State Avenue, Kansas City, KS 66101.
- Montana Operations Office, Federal Building, 301 South Park, Helena, MT 59286.
- National Enforcement Investigations Center, Building 53, Denver, CO 80225.
- Office of Enforcement Compliance and Assurance, Mobile Source Enforcement, Western Field Office, 12345 West Alameda Parkway, Lakewood, CO 80228.
- Center for Strategic Environmental Enforcement, 12345 West Alameda Parkway, Lakewood, CO 80228.
- USEPA Region 8, Denver Federal Center, Laboratory Services Program, Building 53, Denver, CO 80225.
- National Enforcement Training Institute West, 12345 West Alameda Parkway, Lakewood, CO 80228.
- Criminal Investigation Division, Helena Resident Office, 301 South Park, Helena, MT 59626.
- Criminal Investigation Division, Salt Lake City Resident Office, Wallace F. Bennett Federal Building, 125 South State Street, Salt Lake City, UT 84138.
- Pacific Island Contact Office, P.O. Box 50003, 300 Ala Moana Boulevard, Honolulu, HI 96850.
- Honolulu Resident Office, 449 South Ave., Bldg. 221, 2nd Floor, Pearl Harbor, HI 96860.
- San Diego Border Office, 610 West Ash Street, San Diego, CA 92101.
- USEPA Region 9 Laboratory, 1337 South 46th Street, Richmond, CA 94804.
- Los Angeles Area Office, 600 South Lake Ave., Suite 202, Pasadena, CA 91106.
- Area Office of Civil Rights, P.O. Box 93478, Las Vegas, NV 89193.
- Human Resources Office at Las Vegas, P.O. Box 98516, Las Vegas, NV 89193.
- Criminal Investigation Division, Sacramento Resident Office, 501 Eye Street, Suite 9-800, Sacramento, CA 95814.
- Office of Inspector General for Audits, Western Division, Sacramento Field Audit Office, 801 I Street, Sacramento, CA 95814.
- Criminal Investigation Division, San Diego Resident Office, 610 West Ash Street, San Diego, CA 92101.
- Environmental Sciences Division, National Exposure Research Laboratory, P.O. Box 93478, Las Vegas, NV 89193.
- Las Vegas Financial Management Center, P.O. Box 98515, Las Vegas, NV 89193.
- Criminal Investigation Division, 600 South Lake Avenue, Pasadena, CA 91106.
- Radiation and Indoor Environments National Laboratory, P.O. Box 98517, Las Vegas, NV 89193.
- Criminal Investigation Division, 522 North Central Avenue, Phoenix, AZ 85004.
- Alaska Operations Office, Federal Building, 222 West 7th Avenue, Anchorage, AK 99513.
- Alaska Operations Office, 410 Willoughby Avenue, Juneau, AK 99801.
- Oregon Operations Office, 811 S.W. Sixth Avenue, Portland, OR 97204.
- Hanford Project Office, 712 Swift Boulevard, Richland, WA 99352.
- Idaho Operations Office, 1435 North Orchard Street, Boise, ID 83706.
- Boise Resident Office, 877 West Main St., Suite 201, Boise, ID 83702.
- Manchester Laboratory, 7411 Beach Drive East, Port Orchard, WA 98366.
- Washington Operations Office, 300 Desmond Drive SE, Lacey, WA 98503.
- National Health and Environmental Effects Research Laboratory, Western Ecology Division, 200 S.W. 35th Street, Corvallis, OR 97333.
- National Health and Environmental Effects Research Laboratory, Western Ecology Division, Hatfield Marine Science Drive, 211 S.E. Marine Science Drive, Newport, OR 98365.
- Criminal Investigation Division, Portland Resident Office, 1001 South West 5th Avenue, Portland, OR 97204.
- Criminal Investigation Division, Anchorage Resident Office, 222 West 7th Avenue, Anchorage, AK 99513.

[FR Doc. 02-3921 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**[FRL-7145-6]****Privacy Act of 1974: Deletion of System of Records****AGENCY:** Environmental Protection Agency.**ACTION:** Notice; termination of six Privacy Act system of records.**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to terminate six Privacy Act system of records.**EFFECTIVE DATES:** The proposed deletions will be effective upon publication.**ADDRESSES:** Send written comments to Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460, telephone (202) 260-6131.**FOR FURTHER INFORMATION CONTACT:** Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (2822) Washington, DC 20460.**SUPPLEMENTARY INFORMATION:** Several existing EPA systems of records are obsolete.

Dated: October 25, 2001.

Margaret Schneider,
*Acting Assistant Administrator, Office of Environmental Information.***Obsolete Systems****1. EPA-2 General Personnel Records**

The categories of records in this system are nonpermanent personnel records not required to be maintained by the CSC. The reference to the superseded Civil Service Commission indicates the age of the notice. The Office of Personnel Management (OPM) superseded the CSC in 1978.

EPA-2 may not be an actual system of record. The notice can and should be eliminated as obsolete.

2. EPA-12 Statements of Known Financial Interests

EPA established this system of records following passage of laws in 1976 that imposed financial disclosures on EPA employees. Later laws applied financial disclosures requirements government-wide, and the specific EPA requirement became obsolete. See, e.g., 5 CFR part 2634 (1999) (Office of Government Ethics), and 61 FR 40500 (Aug. 2, 1996).

EPA-12 no longer exists and the notice can be eliminated as obsolete.

3. EPA-15 Enforcement Case Support Expert Resources Inventory

EPA-15 was clearly a system when it began. It appears that it is only still used

because the one person at EPA knowledgeable about the system continues to use it occasionally. The data is obsolete, and some procedures for selecting experts have changed. It seems unlikely that use of the records will continue after Lamber leaves the agency.

EPA-15 can be eliminated as obsolete.

4. EPA-16 Automated Information System for Career Management

This is one of two systems identified with the number 16. The original owner is the Procurement and Contracts Management Division. EPA-31, Contract Manager Record System, covers the same function, and that system notice will be updated under the name Acquisition Training System. EPA-16 no longer serves any purpose.

EPA-16 can be eliminated as duplicative.

5. EPA-26 Radon Contractor Proficiency Program

The information in the system is about individuals in their professional capacities as radon contractors, and it may not have been necessary to define it as a system of records. The decision to publish a system was reasonable, however, because of the possibility that some records could include personal information. In any event, the records were scheduled to disappear in the fall of 1999, and there is no reason to maintain the system notice.

EPA-26 can be eliminated as obsolete.

6. EPA-28 EPA Senior Environmental Employment Program Enrollee Records

While the administrative office may receive from program grantees a list of enrollee names, the office does not retrieve enrollee records by individual identifier. Records maintained by grantees are not subject to the Privacy Act because a grantee is not a contractor and is not performing an agency function.

EPA-28 can be eliminated as obsolete.
[FR Doc. 02-3922 Filed 2-21-02; 8:45 am]

BILLING CODE 6560-50-P**FARM CREDIT ADMINISTRATION****Sunshine Act Meeting****Farm Credit Administration Board; Regular Meeting****AGENCY:** Farm Credit Administration.**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the March 14, 2002 regular meeting of the Farm Credit Administration Board

(Board) will not be held. The FCA Board will hold a special meeting at 9 a.m. on Thursday, March 21, 2002. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT:

Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883-4009, TDD (703) 883-4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

Dated: February 20, 2002.

Kelly Mikel Williams,
Secretary, Farm Credit Administration Board.
[FR Doc. 02-4377 Filed 2-20-02; 11:38 am]**BILLING CODE 6705-01-P****FEDERAL COMMUNICATIONS COMMISSION****[CC Docket No. 92-237; DA 02-332]****Next Meeting of the North American Numbering Council****AGENCY:** Federal Communications Commission.**ACTION:** Notice.**SUMMARY:** On February 15, 2002, the Commission released a public notice announcing the March 12-13, 2002 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.**FOR FURTHER INFORMATION CONTACT:** Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418-2320 or dblue@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418-2345. The TTY number is: (202) 418-0484.**SUPPLEMENTARY INFORMATION:** Released: February 15, 2002.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, March 12, 2002, from 8:30 a.m. until 5 p.m., and on Wednesday, March 13, 2002, from 8:30 a.m., until 12 noon (if required). The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW, Room TW-C305, Washington, DC.

This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business

days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda—Tuesday, March 12, 2002

1. Announcements and Recent News
 2. Approve Minutes
 - Meeting of January 15, 2002
 - Updated NANC Directory
 3. Report of North American Numbering Plan Administrator (NANPA)
 4. Report of NANPA Oversight Working Group
 - Initial evaluation of survey results
 - Industry associations to report on efforts to encourage members to complete surveys
 5. Status of Industry Numbering Committee activities
 - Identifying “policy” issues
 - Summary “walk through” of NANP Expansion Plan
 - INC Regular Report
 6. Report of National Thousands-Block Pooling Administrator
 7. Report of NANP Expansion/Optimization IMG
 8. Report of the Local Number Portability Administration (LNPA) Working Group
 - Wireless Number Portability Operations (WNPO) Subcommittee
 - Native Block Pooling status
 - WNPO/CTIA: Status and risks to November 24, 2002 pooling and porting deadline
 9. Report of NAPM LLC
 10. Report from NBANC
 11. Report of Cost Recovery Working Group
 12. Report of E-Conferencing Subcommittee
 13. Steering Committee
 - Table of NANC Projects
 14. Report of Steering Committee
 15. Action Items
 16. Public Participation (5 minutes each)
 17. Other Business
- Adjourn (No later than 5 p.m.)

Wednesday, March 13, 2002 (If Required)

18. Complete any unfinished Agenda Items
 19. Other Business
- Adjourn (No later than 12:00 Noon)

Federal Communications Commission.

Diane L. Griffin,

*Acting Chief, Network Services Division,
Common Carrier Bureau.*

[FR Doc. 02-4216 Filed 2-21-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-179]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period from September 2001 through December 2001. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE, Mailstop E-32, Atlanta, Georgia 30333, telephone (404) 498-0007.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on November 16, 2001 (66 FR 57719). This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR part 90). This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive

Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605-6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between September 10, 2001, and December 13, 2001, public health assessments were issued for the sites listed below:

NPL Sites

California

Omega Chemical Site (a/k/a Omega Chemical Corporation) (PB2002-100351).

Georgia

Marine Corps Logistics Base (PB2002-100526).

Illinois

Joliet Army Ammunition Plant (Manufacturing Area) and Joliet Army Ammunition Plant (Lap Area) (PB2002-100352).

Maryland

Andrews Air Force Base (PB2002-100354).

Beltsville Agricultural Research Center (PB2002-101482).

Massachusetts

Atlas Tack Site (a/k/a Atlas Tack Corporation) (PB2002-101491).

North Carolina

Petitioned Public Health Assessment (a/k/a Carolina Solite Corporation/Aquadale) (PB2002-100417).

Puerto Rico

Isla de Vieques Bombing Site (PB2002-100532).

Utah

International Smelting and Refining (PB2002-100928).

Washington

Naval Undersea Warfare Center (NUWC) Division (a/k/a Naval Undersea Warfare Engineering Station) (PB2002-100405).

Boomsnub/Airco Superfund Site (a/k/a Boomsnub/Airco) (PB2002-100353).

Non NPL Petitioned Sites

None.

Dated: February 14, 2002.

Georgi Jones,

*Director, Office of Policy and External Affairs,
Agency for Toxic Substances and Disease
Registry.*

[FR Doc. 02-4318 Filed 2-21-02; 8:45 am]

BILLING CODE 4163-70-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**
**Centers for Medicare & Medicaid
Services**

[CMS-4030-N]

**Medicare Program; Solicitation for
Proposals for the Demonstration
Project for Disease Management for
Severely Chronically Ill Medicare
Beneficiaries With Congestive Heart
Failure, Diabetes, and Coronary Heart
Disease**

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

ACTION: Notice for solicitation of
proposals.

SUMMARY: This notice informs interested parties of an opportunity to apply for a cooperative agreement for the Medicare Disease Management Demonstration. This demonstration uses disease management interventions to (1) improve the quality of services furnished to specific beneficiaries, (2) introduce full prescription drug coverage to encourage compliance with medical instructions and requirements, and (3) manage expenditures under Parts A and B of the Medicare program. We are interested in testing models aimed at beneficiaries who have one or more chronic conditions that are related to high costs to the Medicare program, namely, congestive heart failure, diabetes, or coronary heart disease. We intend to use a competitive application process to select up to three existing disease management organizations to participate in this demonstration.

Potentially qualified applicants are existing providers of disease management services applicable to the Medicare population specific to the three targeted chronic conditions.

DATES: Applications will be considered timely if we receive them on or before May 23, 2002.

ADDRESSES: Applications should be mailed to the following address: Department of Health and Human Services, Centers for Medicare & Medicaid Services, Attention: Tamara Jackson-Douglas, Project Officer, Center

for Beneficiary Choices, Mail Stop: C4-17-27, 7500 Security Boulevard, Baltimore, Maryland 21244.

Please refer to the file code CMS-4030-N on the application. Because of staffing and resource limitations, we cannot accept applications by facsimile (FAX) transmission. Applications postmarked after the closing date, or postmarked on or before the closing date but not received in time for panel review, will be considered late applications.

FOR FURTHER INFORMATION CONTACT:

Tamara Jackson-Douglas at (410) 786-9417, or by e-mail at TJackson2@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: Our Disease Management Demonstration website (www.hcfa.gov/research/dmdemo.htm) contains additional information about these demonstrations and specific submission requirements for applications.

I. Background

A. Statutory Requirements

Section 121 of the Medicare, Medicaid, and State Child Health Insurance Program Benefits Improvement and Protection Act of 2000 (BIPA) requires the Secretary of Health and Human Services (the Secretary) to conduct a demonstration project for the Medicare fee-for-service population to demonstrate the impact on costs and health outcomes of applying disease management services, supplemented with coverage for prescription drugs, to specific Medicare beneficiaries with diagnosed, advanced-stage congestive heart failure, diabetes, or coronary heart disease. This demonstration project should result in a net reduction in aggregate Medicare expenditures. This project may include up to three organizations and cover up to 30,000 beneficiaries at a time. The project will last for 3 years.

B. Problem

Historically, a small proportion of Medicare beneficiaries has accounted for a major proportion of Medicare expenditures. For example, in 1996, 12.1 percent of all Medicare enrollees accounted for 75.5 percent (\$126.1 billion) of all Medicare fee-for-service program payments. Many of these high-cost beneficiaries are chronically ill with certain common diagnoses, and most of the Medicare expenditures for their care are for repeated hospitalizations. During the next 30 years, as the population ages, the number of individuals and estimated cost of care for high-cost beneficiaries is expected to grow dramatically.

In the fee-for-service environment, health care for individuals with chronic illness has often been fragmented and poorly coordinated across multiple health care providers and multiple sites of care. Evidence-based practice guidelines have not always been followed, nor have patients always been taught how best to care for themselves. These shortcomings are particularly true for patients served under reimbursement systems in which providers lack incentives for controlling the frequency, mix, and intensity of services, and in which providers have limited accountability for the outcomes of care.

The vast majority of disease management patients' issues center around a single disease or condition and fall into fundamental problems with their own behavior, access to appropriate prescription drugs, or the disease-specific care they receive. Patient behavior-based problems include poor medication compliance, lack of self-care skills, and lack of adherence to recommended lifestyle changes. Patients' general reluctance to make major adjustments to their ways of life tends to be reinforced when patients are unable to see the direct or immediate benefits resulting from these changes.

Further compounding this problem for Medicare beneficiaries is the fact that Medicare generally does not cover outpatient prescription drugs. Beneficiaries wanting drug benefits have to purchase supplemental insurance, or join a Medicare+Choice plan if they are not already covered under an employer-sponsored retirement plan or a publicly-funded program, such as Medicaid or the Department of Veterans Affairs. Our research shows that, as of 1998, a majority (73 percent) of Medicare beneficiaries had some drug coverage at one point or another within a given year, and that fewer than half have had uninterrupted coverage for 2 consecutive years. Furthermore, questions remain regarding extent, quality, and comparability of coverage across different programs. Appropriate, effective pharmaceuticals are a key part of a comprehensive treatment program, and effective disease management must include access to appropriate medications.

Provider-related problems include failure to prescribe the most effective medications, poor coordination of care across providers and settings, lack of adherence to disease-specific guidelines based on evidence or expert panels, and inadequate follow-up and monitoring.

C. Disease Management

The level of interest in, and knowledge about, disease management is growing dramatically. The Institute of Medicine's report, entitled *Crossing the Quality Chasm: A New Health System for the 21st Century* (published by Health Care Services, National Academy Press in 2001), highlights the challenge of managing chronic conditions within a system that was designed to treat acute illness. Major national organizations, such as the National Disease Management Association (NDMA), have been formed to advance the practice of disease management, and the National Committee for Quality Assurance (NCQA) has just released draft standards for disease management programs for public comment.

Early efforts at disease management occurred mainly in managed care settings, because the plan and the providers had clear incentives to manage care, and the patients were enrolled and "locked into" a delivery system. More recently, a variety of health care organizations, including physician group practices, private insurers, commercial firms, and academic medical centers, have developed programs designed to address the challenges inherent in managing chronic illnesses within the context of a fee-for-service system.

The NDMA, NCQA, and other organizations, such as the National Pharmaceutical Council, have put forward definitions of disease management that contain certain common elements. These definitions view disease management as an approach to delivering health care to persons with chronic illnesses that aims to improve patient outcomes while containing health care costs. These definitions generally focus on persons whose primary health problem is a specific disease, although certain co-morbid conditions are usually addressed as well. Patients with a similar level of severity of the disease tend to face similar problems and therefore receive similar treatment plans. These disease management interventions tend to be highly structured and emphasize the use of standard protocols and clinical guidelines.

There are certain common features in all of these definitions:

- Identification of patients and matching the intervention with need.
- Use of evidence-based practice guidelines.
- Supporting adherence to the plan of care.
- Supporting adherence to evidence-based medical practice guidelines by

providing medical treatment guidelines to physicians and other providers, reporting on the patient's progress in compliance with protocols, and providing support services to assist the physician in monitoring the patient.

- Services designed to enhance patient self-management and adherence to his or her treatment plan. Examples of those services are patient education, monitoring and reminders, and behavior modification programs aimed at encouraging lifestyle changes.

- Routine reporting/feedback loop (may include communication with patient, physician, health plan and ancillary providers, and practice profiling).

- Communication and collaboration among providers and between the patient and his or her providers. Related services include team conferences, collaborative practice patterns, and routine reporting and feedback loops. In addition, care managers are often used to relay communication and to coordinate care across providers and by face-to-face encounters with chronically ill patients. Programs that address co-morbid conditions extend their communication efforts to include all of the patient's providers and the entire spectrum of care.

- Collection and analysis of process and outcomes measures.

In addition to these standard features, programs may include use of information technology, for example, specialized software, data registries, automated decision support tools, and call-back systems. Although disease management services usually do not include actual treatment of the patient's condition, many disease management programs augment the services provided in the traditional fee-for-service system by adding such services as comprehensive geriatric assessment, social services, preventive services, transportation, including prevention services and necessary prescription drugs and outpatient medications. The interventions provided go beyond those services generally covered under the Medicare fee-for-service program.

In our recent study (Best Practices in Coordinated Care, Chen et al., March 22, 2000) aimed at investigating and benchmarking case management and disease management efforts, we suggested that case and disease management organizations provide services aimed at addressing one or more of the following goals:

- Improving patient self-care through such means as patient education, monitoring, and communication.
- Improving physician performance through feedback and/or reports on the

patient's progress in compliance with protocols.

- Improving communication and coordination of services between patient, physician, disease management organization, and other providers.

- Improving access to services, including prevention services and necessary prescription drugs.

Programs vary in their relative focus on these areas. Some disease management programs may emphasize improving physician use of recommended clinical guidelines; others may focus on providing case managers to support and educate the patient and enhance communication; and still others may emphasize access to additional services.

D. Other CMS Demonstrations for Management of Chronic Diseases

In the past, we have conducted several demonstrations for case management of chronic illnesses, including the National Long-Term Care Demonstration (Final Report by Kemper et al., May 1966. NTIS Accession No. PB86-229119/AS) and the Medicare Alzheimer's Disease Demonstration Evaluation (Final Report October 1998). The evaluations of these demonstrations found that none of the demonstrations provided sufficient savings to cover the additional costs of case management.

There are several possible reasons for the lack of positive results. First, the most appropriate individuals were not always targeted and enrolled in the demonstration. In many cases, the sites enrolled patients with less severe, and therefore less costly, conditions, making it more difficult to achieve cost savings by avoiding normal utilization patterns of acute or long-term medical care. (See the Disease Management Demonstration website address at the beginning of the **SUPPLEMENTARY INFORMATION** section for additional information.)

We are currently conducting other demonstrations that test either case or disease management, both of which are designed for a smaller number of participants than Medicare's Disease Management Demonstration project. In one ongoing demonstration, Lovelace Health Systems, in Albuquerque, New Mexico, was chosen to operate demonstrations of intensive case management services for high-risk patients with congestive heart failure and diabetes to improve the clinical outcomes, quality of life, and satisfaction with services. The other is a larger scale demonstration authorized by section 4016 of the Balanced Budget Act of 1997 (BBA) to evaluate methods, for example, case management and disease management, that improve the

quality of care for beneficiaries with a chronic illness. The "Coordinated Care" demonstration was designed based on the findings of a review of best practices for coordinating care in the private sector. (See the Disease Management Demonstration website address at the beginning of the **SUPPLEMENTARY INFORMATION** section for additional information.)

E. This Disease Management Demonstration

In developing this demonstration, we reviewed the work and recommendations of organizations such as the NDMA and NCQA, and examined our prior and current experience with similar demonstrations.

This demonstration differs significantly from its predecessors in that the legislation stipulates that the demonstration must cover all prescription drugs, even those drugs not related to the beneficiary's targeted condition. The legislation also requires each demonstration organization to accept risk or have another entity agree to accept risk if certain Medicare budget provisions are not met, specifically if the demonstration does not reduce aggregate Medicare program expenditures. In addition, this solicitation highlights the need to target the severe and high-cost cases, and to match the intervention to the patient.

For the purpose of this demonstration, disease management is defined as a systematic approach to managing health care that aims to improve patient self-care, physicians' prescribing and treatment practices, communication and coordination of services between the patient, physician, disease management organization, and other providers, and access to needed services, and incorporates the following features:

- Patient identification, assessment, and enrollment.
- Patient instruction and empowerment regarding self-care.
- Implementation of an appropriate treatment plan based on clinical guidelines.
- Monitoring, feedback, and communication concerning the patient's condition.
- Arranging for and/or providing needed services, including prescription drugs and preventive services.

Disease management programs may also include additional services, such as nurse visits, access to special equipment, and coordination with specialty clinics.

II. Provisions of This Notice

A. Purpose

This notice solicits applications for demonstration projects that use disease management, along with coverage of prescription drugs, to improve the quality of services furnished to specific beneficiaries and to manage expenditures under Parts A and B of the Medicare program. The demonstration anticipates savings from more efficient provision and utilization of Medicare-covered services and the prevention of avoidable, costly medical complications. Applicants may propose to manage one, two, or all three of the advanced-stage, chronic conditions named in section 121 of BIPA (congestive heart failure, diabetes, and coronary heart disease). Even if the applicant focuses on one condition, the others should be treated as they relate to the targeted chronic condition. Beneficiaries may be subject to a modest cost-sharing arrangement pertaining to their prescription drug coverage. Applicants who offer demonstration services beyond the scope of traditional Medicare benefits are not to hold beneficiaries financially liable for demonstration services typically not covered by Medicare. Beneficiaries will continue to be subject to the same co-pays/coinsurance of the traditional Medicare fee-for-service program.

B. Randomization

The demonstration project must provide for voluntary participation for targeted Medicare beneficiaries. Preference will be given to proposals that make use of a randomized experimental design (for example, a concurrent treatment group that receives disease management services and a control group that receives usual care with patient assignment occurring after agreement to participate in the demonstration is established). Applicants must submit evidence of their ability to recruit and serve a study population of at least 5,000 Medicare beneficiaries who will be randomly assigned to applicable treatment and control groups.

When characteristics of the proposed intervention or the population under study renders a randomized design infeasible, applicants must provide a justification for that conclusion, and must fully describe how the proposed treatment and comparison groups would be identified so that the selection bias usually avoided by randomization would be minimized. Details of the applicant's proposed experimental design must be specified in its proposal, including the expected number of

eligible Medicare beneficiaries in the geographic area the program intends to serve and the proportion expected to volunteer for the demonstration.

Applicants must either—

(1) Allow us or our contractor(s) to assign beneficiaries to the experimental and/or control groups; or

(2) Have their proposed procedures for assignment approved and monitored by us.

Beneficiaries who are already being served by an awardee's program (that is, beneficiaries who are participants at the time an award is made to the disease management organization) may not be recruited by that awardee for participation in the demonstration.

C. Evaluation

Through this solicitation, project awards will be made to up to three disease management organizations. An organization may propose one or multiple sites for any of its targeted diseases or for multiple diseases. The demonstration projects will operate for up to 3 years from implementation during which time a formal independent evaluation will be conducted. Each awardee is expected to fully cooperate in all phases of the evaluation. Our project officer will be assigned to each selected project. That project officer will serve as the point of contact with the demonstration project staff and will provide technical consultation regarding cooperative agreement procedures, monitor demonstration site activities, and forward feedback to the demonstration project's staff.

D. Requirements for Models

We are seeking innovative proposals from organizations that can test whether models of disease management improve clinical outcomes and appropriate use of Medicare-covered services for targeted Medicare fee-for-service beneficiaries, while managing Medicare expenditures under parts A and B to achieve reduced aggregate Medicare expenditures.

Models that are targeted specifically at the Medicare population and that take into account the beneficiaries' relative health and functional status, age, mental functioning, and other relevant factors, are of particular interest. Preference will be given to proposals that focus on beneficiaries most likely to benefit from disease management interventions and that take patient co-morbidities into account in the services provided. In selecting applicants for this demonstration project, we will also consider whether the applicant will serve the Medicare ethnic patient

populations disproportionately affected by the targeted diseases.

An organization that wishes to apply to participate in the demonstration should refer to the specific submission requirements at our Web site (listed in the **SUPPLEMENTARY INFORMATION** section of this notice).

E. Submission of Applications

Applications (an unbound original and 10 copies) must be received by us as indicated in the **DATES** and **ADDRESSES** sections of this notice. Only proposals that are considered "on time" will be reviewed and considered by the technical review panel. Applications must be typed for clarity and should not exceed 40 double-spaced pages, exclusive of the cover letter, executive summary, resumes, forms, and documentation supporting the cost proposal. That is, sections 4, 5, 6, 7, 8, and 9 below must be presented in 40 double-spaced typewritten pages. These sections make up the body of the proposal and must fully describe the proposed project.

Application Contents Outline

To facilitate the review process, the application should include the following contents in the following order:

1. Cover Letter

Must include a brief description of the proposed project and indicate the target population, and urban site or rural site, and identify any and all CMS provider numbers assigned to the applicant, a contact person, and contact information.

2. "Application for Federal Assistance"—Standard Form 424

Must include SF-424a "Budget Information" and SF-424b "Assurances" available on our Web site (www.hcfa.gov/research/dmdemo.htm).

3. Executive Summary

Must include a summary of the project, disease management experience, existence of adequate information systems, and willingness to share protocols for disease management.

4. Statement of the Problem
5. Targeting the Appropriate Population
6. Description of Disease Management Intervention Services
7. Organizational Capabilities
8. Effectiveness of Intervention(s): Quality
9. Payment for Disease Management Services, Reduction of Medicare Expenditures, and Reinsurance
10. Related Supplemental Materials

III. Evaluation Process and Criteria

A panel of experts will conduct a review of responsive proposals. This technical review panel will convene in the months following the due date for submission of proposals. The panelists' recommendations will contain numerical ratings based on the evaluation criteria, the ranking of all responsive proposals, and a written assessment of each applicant. In addition, we will conduct a financial analysis of the recommended proposals and evaluate the proposed projects to ensure that aggregate Medicare program expenditures are reduced.

Our Administrator will make the final selection of projects for the demonstration from among the most highly qualified applicants, taking into consideration a number of factors, including operational feasibility, geographic location, and program priorities (for example, testing a variety of approaches for delivering services, targeting beneficiaries, and payment). Applicants should be aware that proposals may be accepted in whole or in part. In evaluating applications, we rely on our past experience with successful and unsuccessful demonstrations. We reserve the right to conduct one or more site visits before making awards. We expect to make the awards in 2002.

IV. Collection of Information Requirements

As this demonstration requires existing disease management organizations to (1) supplement their offerings with full prescription drug coverage, (2) provide reinsurance to guarantee reduced aggregate Medicare program expenditures, and (3) recruit and serve at least 5,000 appropriately-targeted Medicare beneficiaries, it is unlikely that many disease management organizations would be eligible to participate in this project. We expect fewer than 10 organizations to submit proposals. Therefore, the collection requirements referenced in this notice are not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), as defined under 5 CFR 1320.3(c).

Authority: Section 121 of the Medicare, Medicaid, and State Child Health Insurance Program Benefits Improvement and Protection Act of 2000 (BIPA).

(Catalog of Federal Domestic Assistance Program No. 93.779, Health Care Financing Research, Demonstrations and Evaluations)

Dated: February 5, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02-4355 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3061-FN]

RIN: 0938-AH15

Medicare Program; Disapproval of Alcon Laboratories' Request for an Adjustment in Payment Amounts for New Technology Intraocular Lenses Furnished by Ambulatory Surgical Centers

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

ACTION: Final notice.

SUMMARY: This final notice announces our disapproval of Alcon Laboratories' request for a \$50 adjustment in payment amount for lenses reviewed for determination as a new technology intraocular lens (NTIOL).

FOR FURTHER INFORMATION CONTACT: Betty Shaw, (410) 786-6100.

SUPPLEMENTARY INFORMATION: *Copies:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512-1800 (or toll-free at 1-888-293-6498) or by faxing to (202) 512-2250. The cost for each copy is \$9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: <http://www.access.gpo.gov/nara/index.html>.

I. Background

In our regulations at 42 CFR part 416, subpart F, we describe the process an interested party must use to request that

we review the appropriateness of the payment amount for a new technology intraocular lens (NTIOL) furnished by ambulatory surgical centers (ASCs). On October 26, 2001, we published a notice with comment period in the **Federal Register** (66 FR 54261) listing the lenses for which we had received requests for a review for payment adjustment. We received only one request, on May 16, 2001 from Alcon Laboratories for its Acrysof lenses MA30BA, MA60BM, MA50BM, MA60MA, MA30AC, and MA60AC. Alcon Laboratories claimed these lenses provide a reduction in the rate of Nd:YAG capsulotomy and posterior capsule opacification (PCO). MA30BA and MA60BM were previously submitted in 1999 and we subsequently determined that these lenses did not demonstrate clinical advantages over existing lenses with respect to reduction in Nd:YAG capsulotomy and reduced posterior capsule opacification by reduction in lens epithelial cells (LECs) (65 FR 25738, 25739).

In accordance with our NTIOL procedures, we asked the Food and Drug Administration (FDA) to review Alcon's new request to determine whether the claims of specific clinical advantage and superiority over existing intraocular lenses (IOLs) had been approved for labeling and advertising purposes. Our regulations require FDA's approval of its claims for advertising and labeling in order for an IOL to be classified as an NTIOL. The FDA conveyed its analysis of the lenses to CMS in an August 16, 2001 memorandum.

The FDA determined that the Acrysof lenses did not demonstrate clinical superiority over a representative sample of lenses outside the new class with respect to a reduced rate of Nd:YAG capsulotomy and PCO. Alcon Laboratories provided articles that could arguably support clinical advantages over a particular silicone IOL. However, Alcon Laboratories' FDA approved labeling states that there were no differences in Nd:YAG rate between the Acrysof lens and the silicone IOL studied.

II. Analysis of and Responses to Public Comments

We also received 20 comments in response to the notice listing the lenses requesting a review. Of these, 17 were from ophthalmologists. The other three comments were from one public interest group and two competing manufacturers of IOLs.

Comment: Seventeen of the commenters supported the Alcon Laboratories Acrysof lenses announced in the notice. All of these commenters

were practicing ophthalmologists. The comments received were testimonials of support based on the commenters' experiences with the Acrysof lenses. Commenters stated that the lenses reduced formation and migration of lens epithelial cells (LECs), and that there is a lower incidence of PCO, thus reducing Nd:YAG laser capsulotomy rates. The commenters also stated that the Acrysof lens unfolded more predictably, and with less force, thereby reducing the risk of inadvertent malpositioning of the lens.

Response: We appreciate the commenters' testimonials with regard to intra-operative and post-operative experiences with the Acrysof lenses. However, testimonials are substantially less reliable than published clinical data in deciding whether a lens has specific clinical advantages and superiority over existing lenses in order to be considered an NTIOL.

Comment: One commenter stated that claims that Acrysof lenses are superior to polyacrylic or second-generation silicone IOLs are not supported by published data.

Response: We agree with the commenter.

Comment: One commenter indicated that more recent studies report lower incidences of PCO with silicone IOLs than earlier reports, leading to a recent decrease in Nd:YAG laser capsulotomy rates. The commenter noted that the decrease was attributed to improvements in surgical technique rather than improvements in lens material or design.

Response: The manufacturer of these lenses has not demonstrated clinical advantages and superiority over existing lenses, as the regulations require.

III. Criteria for Determination

We evaluate requests for the designation of an IOL as an NTIOL by using the following criteria:

(1) Has the requestor identified the new class of IOLs to which its lens belongs based on a type of material and/or predominant characteristic that it does not share with lenses outside of the new class?

(2) Has the requestor demonstrated that its lens is clinically superior to a representative sample of lenses outside of the new class? Clinical superiority includes reducing the risk of intraoperative or postoperative complication or trauma, or demonstrating accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) Has the requestor demonstrated that the clinical superiority is produced by the material and/or predominant characteristic that defines the new class?

(4) Has the FDA approved the claim of clinical superiority for labeling and advertising?

IV. Decision

In determining which lenses meet the criteria and definition of an NTIOL, we relied on the clinical data and evidence submitted to us by Alcon Laboratories, public comments, and the FDA's approval of Alcon's claims. We independently reached the same decision as the FDA.

In regard to the first criterion, it is appears that Alcon is claiming that the Acrysof lenses are a new class because of outcomes resulting in reduced LEC migration and reduced incidence of Nd:YAG posterior capsulotomy. However, the criterion specifically states that a new class must be based on a material and/or predominant characteristic. CMS asserts that "predominant characteristic," like material characteristic, would be some physical property of the lens, and that it would be this material or predominant characteristic that would lead to the outcome benefit. Alcon did not define the material and/or predominant characteristic of the Acrysof lenses that would constitute a new technology class.

The second criterion in Section III of this notice states that the lens must be shown superior to a representative sample of lenses outside of this new class. Not only did Alcon fail to define what the new class is for Acrysof, it also did not provide a systematic comparison of the lens to other IOLs. For example, if Alcon identified Acrysof as a new class of foldables, then a comparison of Acrysof to all foldables would be an example of one systematic comparison.

The third criterion states that the clinical superiority seen is produced by the new material and/or predominant characteristic that defined the new class. As stated above, there was no definitive demonstration that a new class was achieved, nor was there a thorough, systematic comparison of said new class lens to other lenses outside the class. Thus, Alcon failed to meet this third criterion.

The fourth criterion states that the lens in question must have received FDA approval for the claimed superiority. The FDA did approve Acrysof's claims of superiority in reduced LEC migration and reduced incidence of Nd:YAG posterior

capsulotomy as compared to one similarly designed PMMA IOL (PMMA is the only type of non-foldable IOL currently being distributed). However, the FDA has not approved a claim that Acrysof is superior to all non-foldable lenses or to any other type of foldable lens. Therefore, Alcon has not met criterion four. We conclude that the Acrysof lenses described in this notice are not NTIOLs, and, therefore, not eligible for the additional \$50 payment.

Authority: Sections 1832 (a)(2)(F)(i) and 1833(i)(2)(A) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)(i) and 1395l(i)(2)(A). (Catalog of Federal Domestic Assistance Program No. 93.773 Medicare-Hospital Insurance Program; and No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: January 20, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02-4354 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3087-N]

Medicare Program; Meeting of the Executive Committee of the Medicare Coverage Advisory Committee—April 16, 2002

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

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Executive Committee (the Committee) of the Medicare Coverage Advisory Committee (MCAC). The Committee provides advice and recommendations to us about clinical issues. The Committee will act upon recommendations from the Diagnostic Imaging Panel of the MCAC regarding whether and when it is scientifically justified to use FDG Positron Emission Tomography or other neuroimaging devices for the diagnosis and patient management of those with Alzheimer's disease.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)).

DATES: *The Meeting:* April 16, 2002 from 8 a.m. until 4:30 p.m., E.D.T.

Deadline for Presentations and Comments: March 27, 2002, 5 p.m., E.D.T.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by March 18, 2002 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at the Baltimore Convention Center, Room 321-322, One West Pratt Street, Baltimore, MD 21201.

Presentations and Comments: Submit formal presentations and written comments to Janet A. Anderson, Executive Secretary; Office of Clinical Standards and Quality; Centers for Medicare & Medicaid Services; 7500 Security Boulevard; Mail Stop C1-09-06; Baltimore, MD 21244.

Website: You may access up-to-date information on this meeting at www.hcfa.gov/coverage.

Hotline: You may access up-to-date information on this meeting on the CMS Advisory Committee Information Hotline, 1-877-449-5659 (toll free) or in the Baltimore area (410) 786-9379.

FOR FURTHER INFORMATION CONTACT: Janet A. Anderson, Executive Secretary, 410-786-2700.

SUPPLEMENTARY INFORMATION: On December 14, 1998, we published a notice in the **Federal Register** (63 FR 68780) to describe the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces the following April 16, 2002 public meeting of the Executive Committee (the Committee) of the MCAC.

Current Panel Members

Harold C. Sox, M.D.; Daisy Alford-Smith, Ph.D.; Wade Aubry, M.D.; Linda Bergthold, Ph.D.; Ronald M. Davis, M.D.; John H. Ferguson, M.D.; Leslie P. Francis, J.D., Ph.D.; Alan M. Garber, M.D., Ph.D.; Thomas V. Holohan, M.D., M.A.; Michael D. Maves, M.D., M.B.A.; Barbara J. McNeil, M.D., Ph.D.; Robert L. Murray, Ph.D.; Frank J. Papatheofanis, M.D., Ph.D.; Randel E. Richner, M.P.H.

Meeting Topic

The Committee will act on recommendations from the Diagnostic Imaging Panel of the MCAC regarding FDG Positron Emission Tomography imaging for Alzheimer's disease, mild cognitive impairment, and dementia.

Procedure and Agenda

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 90 minutes. The

Committee may limit the number and duration of oral presentations to the time available. If you wish to make a formal presentation, you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section of this notice, and submit the following by the *Deadline for Presentations and Comments* date listed in the **DATES** section of this notice: a brief statement of the general nature of the evidence or arguments you wish to present, and the names and addresses of proposed participants. A written copy of your presentation must be provided to the Executive Secretary before offering your public comments. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow approximately a 30-minute open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote, and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 31, 2002.

Jeffrey L. Kang,

Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 02-3986 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1214-N]

Medicare Program; March 25-26, 2002, Meeting of the Practicing Physicians Advisory Council

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

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory

Council. The Council will be meeting to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary of the Department of Health and Human Services. These meetings are open to the public.

DATES: The meeting is scheduled for March 25, 2002, from 8:30 a.m. until 5 p.m. e.s.t., and March 26, 2002, from 8:30 a.m. until 1 p.m. e.s.t.

ADDRESSES: The meeting will be held in Room 800, 8th Floor, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Meeting Registration: Persons wishing to attend this meeting must contact Diana Motsiopoulos, Administrative Officer, at dmotsiopoulos@cms.hhs.gov or (410) 786-3379, at least 72 hours in advance to register. Persons not registered in advance, will not be permitted into the building and will not be permitted to attend the meeting. Persons attending the meeting will be required to show a photographic identification, preferably a valid driver's license, before entering the building.

FOR FURTHER INFORMATION CONTACT: Paul Rudolf, M.D., J.D., Executive Director, Practicing Physicians Advisory Council, 7500 Security Blvd., Mail Stop C5-17-14, Baltimore, MD 21244-1850, 410-786-3379. News media representatives should contact the CMS Press Office, (202) 690-6145. Please refer to the CMS Advisory Committees Information Line (1-877-449-5659 toll free)/(410-786-9379 local) or the Internet at <http://www.hcfa.gov/medicare/ppacsite.htm> for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services not later than December 31 of each year.

The Council consists of fifteen physicians, each of whom must have submitted at least two hundred fifty claims for physicians' services under

Title XVIII in the previous year. Members shall include both participating and nonparticipating physicians, and physicians practicing in rural and under served urban areas. At least eleven members of the Council shall be physicians as described in section 1861(r)(1) (that is, M.D. or D.O.). The remaining four members may include dentists, podiatrists, optometrists and chiropractors. Members serve for overlapping 4-year terms; terms of more than 2 years are contingent upon the renewal of the Council by appropriate action prior to its termination. Section 1868(a) of the Act provides that nominations to the Secretary for Council membership must be made by medical organizations representing physicians.

The Council held its first meeting on May 11, 1992.

The current members are: Jerold M. Aronson, M.D.; James Bergeron, M.D.; Richard Bronfman, D.P.M.; Joseph Heyman, M.D.; Sandral Hullett, M.D.; Stephen A. Imbeau, M.D.; Joe Johnson, D.O.; Angelyn L. Moultrie-Lizana, D.O.; Dale Lervick, O.D.; Michael T. Rapp, M.D.; Sandra B. Reed, M.D.; Amilu Rothhammer, M.D.; Victor Vela, M.D.; Kenneth M. Viste, Jr., M.D.; and Douglas L. Wood, M.D.

The meeting will commence with a Council update on the status of prior recommendations, followed by discussion and comment on the following agenda topics:

- Physician's Regulatory Issues Team Update
- Update on Physician Fee Schedule
- Sustainable Growth Rate 2003
- Evaluation & Management Guidelines
- Health Insurance Portability & Accountability Act Privacy Rule
- Contractor Billing and Operations—Claims Processing

For additional information and clarification on these topics, contact the Executive Director, listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual physicians or medical organizations that represent physicians wishing to make a 5-minute oral presentation on agenda issues should contact the Executive Director by 12 noon, March 11, 2002, to be scheduled. Testimony is limited to agenda topics only. The number of oral presentations may be limited by the time available. A written copy of the presenter's oral remarks must be submitted to Diana Motsiopoulos, Administrative Officer no later than 12 noon, March 11, 2002, for distribution to Council members for review prior to the meeting. Physicians and medical organizations not scheduled to speak

may also submit written comments to the Administrative Officer for distribution. The meeting is open to the public, but attendance is limited to the space available. Individuals requiring sign language interpretation for the hearing impaired or other special accommodation should contact Diana Motsiopoulos at dmotsiopoulos@cms.hhs.gov or (410) 786-3379 at least 10 days before the meeting.

Authority: (Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92-463 (5 U.S.C. App. 2, section 10(a)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 19, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02-4356 Filed 2-21-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held by teleconference on March 6, 2002, from 12:30 p.m. to 4:30 p.m.

Location: Food and Drug Administration, Bldg. 29, conference room 121, 8800 Rockville Pike, Bethesda, MD. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting.

Contact Person: Jody G. Sachs or Denise H. Royster, Center for Biologics Evaluation and Research (CBER) (HFM-71), Food and Drug Administration,

1401 Rockville Pike, Rockville, MD 20852, 301-827-0314, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will complete recommendations pertaining to the influenza virus vaccine formulation for the 2002-2003 season, and review and discuss the research programs of the following two CBER Laboratories: Laboratories of Hepatitis Virus and the Laboratory of Vector-borne Viral Diseases.

Procedure: On March 6, 2002, from 12:30 p.m. to 3:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 25, 2002. Oral presentations from the public will be scheduled between approximately 2 p.m. and 2:30 p.m., and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 25, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On March 6, 2002, from 3:30 p.m. to 4:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The meeting will be closed to discuss personal information concerning individuals associated with the research programs.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jody G. Sachs or Denise H. Royster at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the Vaccines and Related Biological Products Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Vaccines and Related

Biological Products Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 17, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02-4378 Filed 2-20-02; 1:27 pm]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Study of Testicular Germ Cell Cancer in U.S. Military Servicemen: Substudy of Maternal Risk Factors

SUMMARY: Under the provisions of section 3607(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 23, 2001, page 44362 and allowed 60 days for public comment. One public comment was received that is being addressed in the study. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays valid OMB control number.

Proposed Collection

Title: Study of Testicular Germ Cell Cancer in U.S. Military Servicemen: Substudy of Maternal Risk Factors. **Type of Information Collection Request:** NEW. **Need and Use of Information Collection:** This study will seek to determine the causes of testicular germ cell cancer. The incidence rate of testicular cancer has been increasing for most of the twentieth century. It is the most common tumor among men between the ages of 15 and 35 years, yet its risk factors remain poorly understood. Servicemen are being studied because they are the right age group and

testicular cancer is the common cancer among men in the service. The cancer's relatively young age of onset and its association with several congenital anomalies indicate that events during in-utero life may place men at risk of this tumor. Therefore, this study seeks to interview the mothers of men who developed testicular cancer and mothers of men who did not develop testicular cancer. Mothers will be asked about events surrounding pregnancy with the son and early life events.

Frequency of Response: One interview is requested. **Affected Public.**

Individuals. Type of Respondents: Mothers of servicemen who were diagnosed with testicular cancer and mothers of servicemen who were not diagnosed with testicular cancer. The annual reporting burden is as follows:

Estimated Number of Respondents: 520;

Estimated Number of Responses per Respondent: 1; **Average Burden Hours Per Response:** 1.0; and

Estimated Total Annual Burden Hours Requests: 520. The annualized cost to respondents is estimated at: \$0. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more

information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Katherine A. McGlynn, Environmental Epidemiology Branch, DCEG, NCI, NIH, Executive Plaza South, Room 7060, 6120 Executive Boulevard, Bethesda, MD 20892-7234, or call non-toll-free number (301) 435-4918 or E-mail your request, including your address: mcglynn@mail.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: February 14, 2002.

Reese L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02-4297 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Reagents to Examine the Expression and Function of CYP2J Subfamily P450s

Darryl Zeldin and Alyce Bradbury (NIEHS)

DHHS Reference No. E-033-02/0—Research tool

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Cytochromes P450 catalyze the NADPH-dependent oxidation of arachidonic acid to various eicosanoids found in several species. The eicosanoids are biosynthesized in numerous tissues including pancreas, intestine, kidney, heart, and lung where they are involved in many different biological activities.

The NIH announces cloned cDNAs for several different CYP2J subfamily members and specific peptide-based antibodies to the P450 proteins. The reagents available for licensing include: human CYP2J2 cDNA, rat CYP2J3 cDNA, mouse CYP2J5 cDNA, mouse CYP2J9 cDNA, anti-CYP2J2rec, anti-CYP2J2pep2, anti-CYP2J9pep2, anti-CYP2J5pep, anti-CYP2J6pep, and insect cell microsomes expressing catalytically active CYP2J2. These reagents can be used to examine the expression of the CYP2J subfamily at the RNA and protein level and can be used to screen drugs for possible metabolism by the CYP2J2 subfamily P450s and/or to identify endogenous substrates for the enzyme. The recombinant protein may also be used to investigate cross-reactivity for other antibodies.

Polyclonal Antibody to Detect Human Membrane-Bound Prostaglandin E Synthase

Dr. Thomas Eling et al. (NIEHS)

DHHS Reference No. E-032-02/0—Research Tool

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Prostaglandin endoperoxide H₂ (PGH₂) is formed from arachidonic acid by the action of cyclooxygenases (cox)-1 or -2. Human prostaglandin E synthase (PGES) is a member of a protein superfamily consisting of membrane-associated proteins involved in eicosanoid and glutathione metabolism. PGE₂ a specific prostaglandin, is formed from PGH₂ by PGES and is then further metabolized into various eicosanoids. It has been reported that the membrane-bound mPGES is linked to cox-2 protein, which may be induced by proinflammatory cytokines such as IL-1 β at sites of inflammation.

The NIH announces a polyclonal antibody capable of detecting human mPGES. It is anticipated that the use of this antibody in western analysis, immunostaining and immuno-precipitation studies will aid researchers in understanding prostaglandin creation and could eventually lead to the development of new anti-inflammatory agents.

Amyloid Beta is a Ligand for FPR Class Receptors

Dr. Ji Ming Wang et al. (NCI)

DHHS Reference No. E-336-01/0 filed 26 Oct 2001

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Alzheimer's disease is the most important dementing illness in the United States because of its high prevalence. Five to ten percent of the United States population 65 years and older are afflicted with the disease. In 1990 there were approximately 4 million individuals with Alzheimer's, and this number is expected to reach 14 million by the year 2050. It is the fourth leading cause of death for adults, resulting in more than 100,000 deaths annually. Amyloid beta has been identified as playing an important role in the neurodegeneration of Alzheimer's disease. However, the mechanism by which this occurred was unknown, but has been postulated to be either direct or indirect through an induction of inflammatory responses.

The NIH announces the identification of the 7-transmembrane, G-protein-coupled receptor, FPRL-1, in the cellular uptake and fibrillar aggregation of amyloid $\beta\beta$ (A $\beta\beta$) peptides. The A $\beta\beta$ peptides use the FPRL-1 receptor to attract and activate human monocytes and mouse microglial cells (publications referenced below), and have been identified as a principal component of the amyloid plaques associated with Alzheimer's disease. In addition, the known anti-inflammatory drug, Colchicine, has been shown to inhibit the FPRL1 activation by amyloid and the internalization of FPRL1/amyloid beta complexes.

This research has been published in Tiffany et al., "Amyloid-beta induces chemotaxis and oxidant stress by acting at formylpeptide receptor 2 (FPR2), a G protein-coupled receptor expressed in phagocytes and brain", *J. Biol. Chem.* 276(26):23645-52, 2001, and Cui et al., "Bacterial lipopolysaccharide selectively up-regulates the function of the chemotactic peptide receptor FPR2 in murine microglial cells", *J. Immunol.* 168: 434-442, 2002.

System for in vivo Site-Directed Mutagenesis Using Oligonucleotides

Dr. Francesca Storici et al. (NIEHS)

DHHS Reference No. E-204-01/0 filed 27 Jul 2001

Licensing Contact: Marlene Shinn; 301/496-7056 ext. 285; e-mail: shinnm@od.nih.gov

Through the use of molecular techniques to induce mutagenesis, along

with genetic functionality data, a large body of information is now available to characterize eukaryotic genomes. Yet with all the advancements seen, the techniques used have been unable to produce clean sequence modifications that contain no heterologous material and are flexible and easy to use.

The NIH announces a new technology wherein unpurified oligonucleotides can be used to create in vivo specific mutations that do not retain heterologous material following mutagenesis. This technology is versatile in that it will allow for site-specific mutagenesis as well as random mutagenesis within a localized area and is applicable to all organisms where homologous recombination is or can be performed. The technology allows for the generation of mutated products in vivo that contain only the desired mutation and can be used in multiple rounds of specific or random changes of up to 200 base pairs.

Fluorescent Magnesium Indicators

Drs. Robert E. London, Pieter Otten, and Louis A. Levy (NIEHS)
Serial No. 60/191,862 filed 24 Mar 2000
and Serial No. 09/816,638 filed on 23 Mar 2001

Licensing Contact: Pradeep Ghosh; 301/496-7736 ext. 211; e-mail: ghoshp@od.nih.gov

Magnesium is essential to many physiochemical processes and plays a central role in the biochemistry of all cells. Many epidemiological studies have established close association between plasma magnesium levels and various diseases including ischaemic heart disease, hypertension, atherosclerosis, osteoporosis, neurological disorders and other chronic illnesses. However, methods and tools to measure selectively ionized magnesium levels in cell preparations or in the body with accuracy and reliability are still lacking in the market today. The present invention pertains to analytical elements and methods for the selective determination of magnesium. In particular, the present invention relates to carboxy-quinolizones and their use as magnesium indicators. Thus, the present invention provides novel fluorescent indicators that are selective for Mg^{2+} . This invention utilizes fluorescence spectroscopy as a tool in monitoring intracellular or extracellular levels of magnesium. This is a non-invasive approach in which ion levels or ion fluxes induced by extracellular stimuli that can be monitored in real time. Current approaches used to measure devices to measure ionized intracellular magnesium in the body generally involve magnetic resonance

spectroscopy to analyze intracellular ATP (adenosine triphosphate) signals. This approach is extremely expensive and subject to very poor accuracy. Unlike other methods and indicators, the composition and methods of this invention provide compounds with significantly increased abilities to accurately measure intracellular and extracellular Mg^{2+} levels in a wide variety of cells. Further, an extended application of this invention relates to the monitoring of the effects of drugs, medicines or toxins that alter the intracellular magnesium levels via changes in cellular ATP levels.

Novel Anti-Thrombin Peptide From the Salivary Gland of *Anopheles albimanus*

Jesus G. Valenzuela, Jose Ribeiro, Ivo Francischetti (NIAID)
Serial No. 60/141,423 filed 29 Jun 1999
and PCT/US00/18078 filed 29 Jun 2000

Licensing Contact: Pradeep Ghosh; 301/496-7736 ext. 211; e-mail: ghoshp@od.nih.gov

Currently, there exists a need for effective bio-pharmacogenic inhibitors that can inhibit clot formation and platelet aggregation without lethal side effects. Blood clot formation resulting from platelet aggregation and chemical release may lead to several fatal vascular diseases such as myocardial infarction, strokes, pulmonary embolism, deep vein thrombosis, peripheral arterial occlusion and other cardiovascular thromboses. This invention pertains to the isolation and sequencing of an anticoagulant inhibitor. In particular, the invention describes the nucleic acid and amino acid sequences of anti-thrombin peptide anophelin, isolated from the salivary glands of the mosquito *Anopheles albimanus*. Alpha-thrombin has been reported to play an important role in the platelet dependent arterial thrombus formation leading to several life-threatening vascular diseases including myocardial infarction and strokes. The mosquito salivary anophelin described in this invention, referenced in Valenzuela et. al. Biochemistry. 1999 Aug 24;38(34):11209-15, is a novel, specific, tight-binding and effective inhibitor of alpha-thrombin. Biochemically, anophelin is a 6.5 kDa peptide that is easily synthesized, has no similarity to hirudin, and has no cysteines. The interaction of anophelin with anti-thrombin inhibits platelet aggregation and blood clotting. The current invention may be effectively administered in subjects, including humans, to inhibit alpha-thrombin activity by inhibiting platelet aggregation.

Identification of Compounds That Potentiate the Activity of Muscarinic Potassium Channels

David L. Armstrong and Desuo Wang (NIEHS)

DHHS Reference Nos. E-265-98/0 filed 30 Nov 2000 and E-265-98/1 filed 29 Nov 2001

Licensing Contact: Pradeep Ghosh; 301/496-7736 ext. 211; e-mail: ghoshp@od.nih.gov

Heart disease is one of the major causes of mortality in developed and developing countries. Potassium channel proteins regulate the excitability of heart muscle, and drugs that open potassium channels have been useful in treating human disease. The present invention describes a novel and G-protein independent mechanism for selectively stimulating muscarinic potassium channels (KIR 3.1/3.4 or KACH). KACH channels are a specific heteromeric class of potassium channels that regulate the excitability of atrial and nodal myocytes in the heart in response to muscarinic receptor stimulation. Specifically, the present invention relates to compounds that potentiate the activity of muscarinic potassium channels in mammalian atrial myocytes and can treat cardiac disease. The present invention provides a novel mechanism for selectively stimulating KACH channels with tetraethylammonium (Wang & Armstrong 2000 J. Physiol. 529, 699-705. New drugs that selectively target the TEA site in the potassium channel without blocking other potassium channels may be able to relax the heart. Because TEA has been shown to enhance basal potassium channel activity without blocking or potentiating muscarinic stimulation, the danger of stopping the heart by targeting this site is minimized. In addition, because KACH channels are expressed primarily in atrial and nodal myocytes, the action potential duration would be shortened selectively in atrial and nodal myocytes leading to slower pacemaker initiation and impulse conduction without reducing ventricular force. Thus, identification of new drugs that target the TEA-site reported in this invention could have great market potential.

Dated: February 12, 2002.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02-4296 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the Cancer Advisory Panel for Complementary and Alternative Medicine (CAPCAM).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) Title 5 U.S.C., as amended, for the discussion could disclose confidential trade secrets or commercial property, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cancer Advisory Panel for Complementary and Alternative Medicine.

Date: February 25, 2002.

Closed: 8:30 am to 1:00 pm.

Agenda: The agenda will include summaries of RAND Process, IAT, Naltrexone and Homeopathy reports.

Open: 1:00 pm to adjournment.

Agenda: The agenda will include summaries of BCS, RAND Process, NCCAM activities and OCCAM activities and other panel business.

Place: Bethesda Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20817.

Contact Person: Richard Nahin, Ph.D., Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, MD 20892, 301/496-7801.

The public comments session is scheduled from 1:00 to 1:30 pm. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Richard Nahin, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301-496-7801, Fax 301-480-3621. Letters of intent of present comments, along with a brief description of the organization represented, should be received no later than 5:00 pm on February 20, 2002. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In

addition, written comments may be submitted to Dr. Nahin at the address listed above up to ten calendar days (March 11, 2002) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by Dr. Richard Nahin, Executive Secretary, CAPCAM, National Institutes of Health, 6707 Democracy Blvd, Suite 106, Bethesda, Maryland 20892, 301-496-7801, Fax 301-480-3621. This meeting is being published less than 15 days prior to the meeting due to scheduling conflicts.

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 02-4292 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 26, 2002.

Time: 8:30 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marita R. Hopmann, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E91, Bethesda, MD 20892, (301) 435-6911, hopmannm@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: February 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4290 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 22, 2002.

Open: 7:45 AM to 8:05 AM.

Agenda: Reports from Institute staff.

Place: 5 Research Court, Conference Room 2A-07, Rockville, MD 20850.

Closed: 8:15 AM to 2:20 PM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: 5 Research Court, Conference Room 2A-07, Rockville, MD 20850.

Contact Person: Robert J. Wenthold, PhD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B28, Rockville, MD 20852. 301-402-2829.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173 Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4293 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Innovation Technologies for Hazardous Waste Site Remediation and Monitoring.

Date: March 26-28, 2002.

Time: 7:00 PM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Suites Hotel, 300 Meredith Drive, Durham, NC 27713.

Contact Person: Brenda K Weis, PhD, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC-30, Research Triangle Park, NC 27709, 919/541-4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic

Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4294 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Analytical Techniques Program".

Date: February 27, 2002.

Time: 1:30 AM to 4:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute of Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Technologies for Localizing Gene Expression and Proteins in the Nervous System".

Date: February 28, 2002.

Time: 10:30 AM to 12:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute of Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, "Medicinal Chemistry—Design and Synthesis of Treatment Agents for Drug Abuse".

Date: March 13, 2002.

Time: 9:00 AM to 11:00 AM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute of Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438. (Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4295 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 18, 2002, 4 p.m. to February 18, 2002, 5 p.m., NIH, Rockledge 2, Bethesda, MD, 20892 which was published in the **Federal Register** on February 7, 2002, 67 FR 5841-5842.

The meeting will be held on February 25, 2002, from 2 p.m. to 3 p.m. The location remains the same. The meeting is closed to the public.

Dated: February 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02-4291 Filed 2-21-02; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4730-N-08]****Federal Property Suitable as Facilities To Assist the Homeless**

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where

property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B-41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable. For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501-0052; Energy: Mr. Tom Knox,

Department of Energy, Office of Engineering & Construction Management, CR-80, Washington, DC 20585; (202) 586-8715; Navy: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374-5065; (202) 685-9200; (These are not toll-free numbers).

Dated: February 14, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

**Title V, Federal Surplus Property Program
Federal Register Report for 2/22/02**

Suitable/Available Properties

Buildings (by State)

Arkansas

Social Security Admin Bldg
337 West Main Street
El Dorado Co: Union AR 71730-
Landholding Agency: GSA
Property Number: 54200210006
Status: Surplus
Comment: 6868 sq. ft., most recent use—
office building
GSA Number : 7-G-AR-0561

California

Bldg. 371
Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020080
Status: Unutilized
Comment: 29,800 sq. ft., needs rehab,
presence of asbestos/lead paint, off-site use
only

Bldg. 402

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020081
Status: Unutilized
Comment: presence of lead paint, most recent
use—storage, off-site use only

Bldg. 417

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020082
Status: Unutilized
Comment: 110 TR, needs rehab, presence of
asbestos/lead paint, off-site use only

Bldg. 418

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020083
Status: Unutilized
Comment: 288 sq. ft., presence of lead paint,
most recent use—storage, off-site use only

Bldg. 426

Naval Warfare Systems Center
San Diego Co: CA 92152-
Landholding Agency: Navy
Property Number: 77200020084
Status: Unutilized
Comment: presence of asbestos/lead paint,
off-site use only

Bldg. 434
Naval Warfare Systems Center
San Diego Co: CA 92152—
Landholding Agency: Navy
Property Number: 77200020085
Status: Unutilized
Comment: 11,440 sq. ft., needs rehab,
presence of asbestos/lead paint, off-site use
only

Bldg. 210
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020086
Status: Unutilized
Comment: 17,708 sq. ft., needs rehab,
presence of asbestos/lead paint, most
recent use—police station, off-site use only

Bldg. 541
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020087
Status: Unutilized
Comment: 3857 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
lab, off-site use only

Bldg. 804
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020088
Status: Unutilized
Comment: 3119 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
admin., off-site use only

Bldg. 805
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020089
Status: Unutilized
Comment: 3732 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
storage, off-site use only

Bldg. 806
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020090
Status: Unutilized
Comment: 3110 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
office, off-site use only

Bldg. 807
Naval Warfare Assessment Station
Corona Co: CA 91718—5000
Landholding Agency: Navy
Property Number: 77200020091
Status: Unutilized
Comment: 3110 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
office, off-site use only

Bldgs. 23027, 23025
Marine Corps Air Station
Miramar Co: San Diego CA 92132—
Landholding Agency: Navy
Property Number: 77200040023
Status: Unutilized
Comment: 400 sq. ft., metal siding, most
recent use—loading facility, off-site use
only

Bldg. 01290
Naval Air Weapons Station

China Lake Co: CA 93555—6100
Landholding Agency: Navy
Property Number: 77200120090
Status: Excess
Comment: 460 sq. ft., most recent use—
garage, off-site use only

Bldg. 02453
Naval Air Weapons Station
China Lake Co: CA 93555—6001
Landholding Agency: Navy
Property Number: 77200120110
Status: Excess
Comment: 48 sq. ft., most recent use—storage
locker, off-site use only

Bldg. 32027
Naval Air Weapons Station
China Lake Co: CA 93555—6001
Landholding Agency: Navy
Property Number: 77200120111
Status: Excess
Comment: 331 sq. ft., off-site use only

Bldg. 32534
Naval Air Weapons Station
China Lake Co: CA 93555—6001
Landholding Agency: Navy
Property Number: 77200120112
Status: Excess
Comment: 2252 sq. ft., most recent use—
repair shop, off-site use only

Bldg. 32537
Naval Air Weapons Station
China Lake Co: CA 93444—6001
Landholding Agency: Navy
Property Number: 77200120113
Status: Excess
Comment: most recent use—instrument
bldg., off-site use only

Florida

Bldgs. 5435, 5439
Iroquois Point Navy Housing
Edgewater Drive
Ewa Beach Co: FL 96705—
Landholding Agency: Navy
Property Number: 77200210021
Status: Unutilized
Comment: 1879 sq. ft. each, need repairs,
presence of asbestos/lead paint, most
recent use—residential, off-site use only

Hawaii

Bldg. S87, Radio Trans. Fac.
Lualualei, Naval Station, Eastern Pacific
Wahiawa Co: Honolulu HI 96786—3050
Landholding Agency: Navy
Property Number: 77199240011
Status: Unutilized
Comment: 7566 sq. ft., 1-story, needs rehab,
most recent use—storage, off-site use only

Bldg. 64, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786—3050
Landholding Agency: Navy
Property Number: 77199310004
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access
restrictions, needs rehab, most recent use—
storage, off-site use only.

Bldg. 442, Naval Station
Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199630088
Status: Excess
Comment: 192 sq. ft., most recent use—
storage, off-site use only

Bldg. S180
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640039
Status: Unutilized
Comment: 3412 sq. ft., 2-story, most recent
use—bomb shelter, off-site use only,
relocation may not be feasible

Bldg. S181
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640040
Status: Unutilized
Comment: 4258 sq. ft., 1-story, most recent
use—bomb shelter, off-site use only,
relocation may not be feasible

Bldg. 219
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640041
Status: Unutilized
Comment: 620 sq. ft., most recent use—
damage control, off-site use only,
relocation may not be feasible

Bldg. 220
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199640042
Status: Unutilized
Comment: 620 sq. ft., most recent use—
damage control, off-site use only,
relocation may not be feasible

Bldg. 160
Naval Station, Pearl Harbor
Pearl Harbor Co: Honolulu HI 96860—
Landholding Agency: Navy
Property Number: 77199840002
Status: Excess
Comment: 6070 sq. ft., needs rehab, presence
of lead paint, most recent use—storage/
office, off-site use only

Living Quarters
Pearl Harbor 602 Turner Avenue
Honolulu Co: HI 96818
Landholding Agency: Navy
Property Number: 77200210018
Status: Excess
Comment: 4394 sq. ft., 2-story, presence of
asbestos/lead paint, most recent use—
residential, off-site use only

Ofc/Conference Bldg.
Pearl Harbor 602 Turner Avenue
Honolulu Co: HI 96818—
Landholding Agency: Navy
Property Number: 77200210019
Status: Excess
Comment: 6540 sq. ft., presence of asbestos/
lead paint, most recent use—office/
conference, off-site use only

Storage Shed
Pearl Harbor 602 Turner Avenue
Honolulu Co: HI 96818—
Landholding Agency: Navy
Property Number: 77200210020
Status: Excess
Comment: 478 sq. ft., presence of asbestos/
lead paint, most recent use—storage, off-
site use only

Idaho

Bldg. CF603

Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415—
Landholding Agency: Energy
Property Number: 41200020004
Status: Excess
Comment: 15,005 sq ft. cinder block,
presence of asbestos/lead paint, major
rehab, off-site use only
CPP657, CPP669, CPP686
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415—
Landholding Agency: Energy
Property Number: 41200110001
Status: Excess
Comment: 8000 sq. ft., bldgs. connected,
possible asbestos/lead paint, most recent
use—offices, off-site use only
TAN 615
Idaho Natl Eng. & Env. Lab
Scoville Co: Butte ID 83415—
Landholding Agency: Energy
Property Number: 41200210008
Status: Excess
Comment: 4214 sq. ft. maintenance bldg.,
presence of asbestos, proper liability
insurance required, off-site use only
Illinois
Milo Comm. Tower Site
350 N. Rt. 8
Milo Co: Bureau IL 56142—
Landholding Agency: GSA
Property Number: 54200020018
Status: Excess
Comment: 120 sq. ft. cinder block bldg.
GSA Number: 1-D-IL-795
LaSalle Comm. Tower Site
1600 NE 8th St.
Richland Co: LaSalle IL 61370—
Landholding Agency: GSA
Property Number: 54200020019
Status: Excess
Comment: 120 sq. ft. cinder block bldg. and
a 300' tower
GSA Number : 1-D-IL-724
Louisiana
Nettles Army Rsv Ctr
1815 N. Bolton Ave.
Alexandria Co: Rapides Parish LA 71303—
Landholding Agency: GSA
Property Number: 54200210007
Status: Surplus
Comment: 12,595 sq. ft. main bldg. & 2640 sq.
ft. shop on 3.8 acres, subject to existing
easements
GSA Number: 7-D-LA-0565
Maryland
Stillpond Housing
521 Round Top Road
Chestertown Co: Queen Anne's MD 21620—
Landholding Agency: GSA
Property Number: 54200140013
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential
GSA Number : 4-U-MD-603
Stillpond Housing
131 Fairview Drive
Chestertown Co: Queen Ann's MD 21620—
Landholding Agency: GSA
Property Number: 54200140014
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential

GSA Number : 4-U-MD-603
Stillpond Housing
100 Farwell Road
Chestertown Co: Queen Ann's MD 21620—
Landholding Agency: GSA
Property Number: 54200140015
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential, presence of lead paint
GSA Number : 4-U-MD-603
Stillpond Housing
115 Rolling Road
Chestertown Co: Kent MD 21620—
Landholding Agency: GSA
Property Number: 54200140016
Status: Excess
Comment: 750 sq. ft., most recent use—
residential
GSA Number: 4-U-MD-603
Stillpond Housing
303 Oriole Road
Chestertown Co: Queen Ann's MD 21620—
Landholding Agency: GSA
Property Number: 54200140017
Status: Excess
Comment: 1000 sq. ft., most recent use—
residential, presence of lead paint
GSA Number: 4-U-MD-603
Stillpond Housing
213 Manor Avenue
Chestertown Co: Kent MD 21620—
Landholding Agency: GSA
Property Number: 54200140018
Status: Excess
Comment: 750 sq. ft., most recent use—
residential
GSA Number: 4-U-MD-603
Bldg. 139
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200010032
Status: Unutilized
Comment: 4950 sq. ft., possible asbestos/lead
paint, most recent use—wind tunnel, off-
site use only
Bldg. 104
Naval Surface Warfare
Carderock Division
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120079
Status: Unutilized
Comment: 8050 sq. ft., most recent use—
garage, off-site use only
Bldg. 109
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5000
Landholding Agency: Navy
Property Number: 77200120080
Status: Unutilized
Comment: 9650 sq. ft., needs rehab, possible
asbestos/lead paint, most recent use—
storage, off-site use only
Bldg. 110
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120081

Status: Unutilized
Comment: 10,750 sq. ft., needs rehab,
presence of asbestos/lead paint, most
recent use—storage, off-site use only
Bldg. 111
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120082
Status: Unutilized
Comment: 4220 sq. ft., most recent use—
office, off-site use only
Bldg. 112
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120083
Status: Unutilized
Comment: 2440 sq. ft., most recent use—
printing bldg., off-site use only
Bldg. 113
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120084
Status: Unutilized
Comment: 2440 sq. ft., most recent use—lab,
off-site use only
Bldg. 143
Naval Surface Warfare
West Bethesda Co: MD 20817-5700
Landholding Agency: Navy
Property Number: 77200120085
Status: Unutilized
Comment: 16,950 sq. ft., needs rehab,
presence of asbestos/lead paint, most
recent use—storage, off-site use only
Bldg. 152
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120086
Status: Unutilized
Comment: 1400 sq. ft., most recent use—fire
house annex, off-site use only
Bldg. 159
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120087
Status: Unutilized
Comment: 605 sq. ft., needs rehab, presence
of asbestos/lead paint, most recent use—
hazardous waste storage, off-site use only
Bldg. 187
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120088
Status: Unutilized
Comment: 768 sq. ft., most recent use—pump
house, off-site use only
Bldg. 117
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817—
5700
Landholding Agency: Navy
Property Number: 77200120102

Status: Unutilized
 Comment: 400 sq. ft., needs rehab, most recent use—storage, off-site use only
 Bldg. 196
 Naval Surface Warfare Center
 Carderock Division
 West Bethesda Co: Montgomery MD 20817–5700
 Landholding Agency: Navy
 Property Number: 77200120106
 Status: Unutilized
 Comment: 456 sq. ft., needs rehab, most recent use—destructor bldg., off-site use only
 Massachusetts
 Aircraft Hanger
 Hanscom Air Force Base
 Concord Co: MA
 Landholding Agency: GSA
 Property Number: 54200140007
 Status: Excess
 Comment: 40,000 sq. ft., off-site use only, relocating property may not be feasible
 GSA Number: 1–D–MA–0857679
 Minnesota
 GAP Filler Radar Site
 St. Paul Co: Rice MN 55101–
 Landholding Agency: GSA
 Property Number: 54199910009
 Status: Excess
 Comment: 1266 sq. ft., concrete block, presence of asbestos/lead paint, most recent use—storage, zoning requirements, preparations for a Phase I study underway, possible underground storage tank
 GSA Number: 1–GR(1)–MN–475
 New Hampshire
 Bldg. 239
 Portsmouth Naval Shipyard
 Portsmouth Co: NH 03804–5000
 Landholding Agency: Navy
 Property Number: 77200030019
 Status: Excess
 Comment: 897 sq. ft., presence of asbestos/lead paint, off-site use only
 New Jersey
 Bldg. 2111
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210022
 Status: Unutilized
 Comment: 7860 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2112
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210023
 Status: Unutilized
 Comment: 9720 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2113
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy

Property Number: 77200210024
 Status: Unutilized
 Comment: 6620 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2114
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210025
 Status: Unutilized
 Comment: 6200 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2115
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210026
 Status: Unutilized
 Comment: 7440 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2212, 2214
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210027
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2216, 2218
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210028
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2220, 2222
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210029
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2224, 2226
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210030
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2241
 Fort Monmouth
 Charles Wood Area

Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210031
 Status: Unutilized
 Comment: 4692 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldg. 2242
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210032
 Status: Unutilized
 Comment: 5052 sq. ft., need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2243, 2245
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210033
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2246, 2247
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210034
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2248, 2249
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210035
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2250, 2251
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210036
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2252, 2253
 Fort Monmouth
 Charles Wood Area
 Ft. Monmouth Co: NJ 07703–
 Landholding Agency: Navy
 Property Number: 77200210037
 Status: Unutilized
 Comment: 4692 sq. ft. each, need extensive repairs, presence of asbestos/lead paint, most recent use—family housing, off-site use only
 Bldgs. 2254, 2255, 2256

Fort Monmouth
Charles Wood Area
Ft. Monmouth Co: NJ 07703–
Landholding Agency: Navy
Property Number: 77200210038
Status: Unutilized
Comment: 4692 sq. ft. each, need extensive
repairs, presence of asbestos/lead paint,
most recent use—family housing, off-site
use only

New York
“Terry Hill”
County Road 51
Manorville NY
Landholding Agency: GSA
Property Number: 54199830008
Status: Surplus
Comment: 2 block structures, 780/272 sq. ft.,
no sanitary facilities, most recent use—
storage/comm. facility, w/6.19 acres in fee
and 4.99 acre easement, remote area
GSA Number: 1–D–NY–864

Binghampton Depot
Nolans Road
Binghampton Co: NY 00000–
Landholding Agency: GSA
Property Number: 54199910015
Status: Excess
Comment: 45,977 sq. ft., needs repair,
presence of asbestos, most recent use—
office
GSA Number: 1–G–NY–760A

Lockport Comm. Facility Annex
6625 Shawnee Road
Wheatfield Co: NY 14120–
Landholding Agency: GSA
Property Number: 54200120009
Status: Excess
Comment: 3334 sq. ft., presence of asbestos,
most recent use—admin/storage
GSA Number: 1–D–NY–885

ROVA NHS Laboratory
4097 Albany Post Road
Hyde Park Co: NY 12538–
Landholding Agency: GSA
Property Number: 54200140008
Status: Excess
Comment: 2491 sq. ft., pre-engineered metal,
most recent use—lab/storage, off-site use
only
GSA Number: 1–I–NY–891

USCG Throg’s Neck Housing
Ft. Schuyler Co: Bronx NY
Landholding Agency: GSA
Property Number: 54200210009
Status: Excess
Comment: 4000 sq. ft. w/garage, presence of
lead paint, possible asbestos, most recent
use—residential, potential for flooding
GSA Number: 1–U–NY–883

North Dakota
Storage Bldg.
117 W. Main St.
Bismarck Co: Burleigh ND 58501–
Landholding Agency: GSA
Property Number: 54200140009
Status: Surplus
Comment: 3200 sq. ft., most recent use—
storage, eligible for listing on the Natl
Register for Historic Places
GSA Number: 7–G–ND–0406

Texas
Federal Courthouse

521 Starr Street
Corpus Christi Co: Nueces TX 78401–
Landholding Agency: GSA
Property Number: 54200140011
Status: Excess
Comment: 6000 sq. ft., needs maintenance,
eligible for Natl Register of Historic Places
GSA Number: 7–G–TX–1049

Social Security Admin Bldg
405 East Levee
Brownsville Co: Cameron TX 78520–
Landholding Agency: GSA
Property Number: 54200210011
Status: Surplus
Comment: 6754 sq. ft., good condition, most
recent use—office building
GSA Number: 7–G–TX–1068

Virginia
Structure SP–129
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110136
Status: Excess
Comment: 3564 sq. ft., presence of asbestos/
lead, most recent use—office, off-site use
only

Bldg. CAD17
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210042
Status: Excess
Comment: 2555 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD43
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210043
Status: Excess
Comment: 572 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD99
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210044
Status: Excess
Comment: 400 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD121
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210045
Status: Excess
Comment: 487 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Bldg. CAD127
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210046
Status: Excess
Comment: 912 sq. ft., needs rehab, presence
of asbestos, most recent use—storage, off-
site use only

Washington
Clarkston USARC

721 Sixth St.
Clarkston Co: Asotin WA
Landholding Agency: GSA
Property Number: 54200140003
Status: Excess
Comment: total approx. 5043 sq. ft., presence
of asbestos, most recent use—military
reserve center/office
GSA Number: 9–D–WA–1196

Wyoming
Medicine Bow Field Ofc.
510 Utah St.
Medicine Bow Co: Carbon WY 82329–0006
Landholding Agency: GSA
Property Number: 54200210013
Status: Surplus
Comment: 2360 sq. ft. office building and
garage, good condition
GSA Number: 7–A–WY–0536–2

Land (by State)

Alaska
05.5 acres
Harding Lake Recreation Site
Richardson Highway
Salcha Co: AK 99714–
Landholding Agency: GSA
Property Number: 54200130001
Status: Underutilized
Comment: no utilities, zoned for outdoor
recreation
GSA Number: 9–D–AK–768–1

California
Portion of Land
Naval Base, Point Loma
Murphy Canyon
San Diego Co: CA 92124–
Landholding Agency: Navy
Property Number: 77200140012
Status: Unutilized
Comment: 24,350 sq. ft. of parking lot,
adjacent to environmentally sensitive area

Missouri
Improved Land
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: MO 63120–1798
Landholding Agency: GSA
Property Number: 54200110007
Status: Surplus
Comment: 21 acres w/2 large bldgs. and
numerous small bldgs. situated on 13
acres, 5 acres = parking lot and streets,
presence of asbestos/lead paint, clean-up
required to state regulator standards
GSA Number : 000000

Ohio
Licking County Tower Site
Summit & Haven Corner Rds.
Pataskala Co: Licking OH 43062–
Landholding Agency: GSA
Property Number: 54200020021
Status: Excess
Comment: Parcel 100 = 3.67 acres, Parcel
100E = 0.57 acres
GSA Number: 1–W–OH–813

Pennsylvania
Naval Air Warfare Center
Hatboro & Bristol Rds.
Northampton Twshp Co: Bucks PA 18954–
Landholding Agency: GSA
Property Number: 54200210010
Status: Excess

Comment: 39 acres, most recent use—
agricultural
GSA Number : 4-F-PA-790

Puerto Rico

Bahia Rear Range Light
Ocean Drive
Catano Co: PR 00632—
Landholding Agency: GSA
Property Number: 54199940003
Status: Excess
Comment: 0.167 w/skeletal tower, fenced, aid
to navigation
GSA Number: 1-T-PR-508

Virginia

Land
Marine Corps Base
Quantico Co: VA 22134—
Landholding Agency: Navy
Property Number: 77200040034
Status: Unutilized
Comment: 4900 sq. ft. open space

Suitable/Unavailable Properties

Buildings (by State)

Florida

Lexington Terrace Housing
Portion of NAS Pensacola
Old Corry Field Rd.
Pensacola Co: Escambia FL 32508—
Landholding Agency: GSA
Property Number: 54200130009
Status: Surplus
Comment: 198 individual housing units,
approximately 400 to 800 sq. ft. per unit,
presence of lead base paint, potential
electric power
GSA Number: 4-N-FL-0735

Georgia

U.S. Post Office/Courthouse
337 W. Broad St.
Albany Co: Dougherty GA 31702—
Landholding Agency: GSA
Property Number: 54200120002
Status: Excess
Comment: 4800 sq. ft., presence of asbestos/
lead paint, historic preservation covenants,
most recent use—Fed. ofcs/P.O./
Courthouse
GSA Number: 4-G-GA-866A

Idaho

Bldg. CFA-613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415—
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comment: 1219 sq. ft., most recent use—
sleeping quarters, presence of asbestos, off-
site use only

Illinois

Radar Communication Link
½ mi east of 116th St.
Co: Will IL
Landholding Agency: GSA
Property Number: 54199820013
Status: Excess
Comment: 297 sq. ft. concrete block bldg.
with radar tower antenna, possible lead
based paint, most recent use—air traffic
control
GSA Number : 2-U-IL-696

Maryland

De LaSalle Bldg.
4900 LaSalle Road
Avondale Co: Prince George MD 20782—
Landholding Agency: GSA
Property Number: 54200020007
Status: Excess
Comment: 130,000 sq. ft., multi-story on
17.79 acres, extensive rehab required,
presence of asbestos/lead paint/pigeon
infestation, subj. to easements, eligible for
Natl Register
GSA Number: 4-G-MD-565A
La Plata Housing
Radio Station Rd.
La Plata Co: Charles MD
Landholding Agency: GSA
Property Number: 54200110006
Status: Excess
Comment: Republished; townhouse complex
of 20 units, 3-bedroom units = 997 sq. ft.,
1115 sq. ft., and 1011 sq. ft., needs rehab,
presence of asbestos/lead paint
GSA Number: 4-N-MD-601

29 Bldgs.

Walter Reed Army Medical Center
Forest Glen Annex, Linden Lane
Silver Spring Co: Montgomery MD 20910—
1246
Location: 24 bldgs. are in poor condition,
presence of asbestos/lead paint, most
recent use—hospital annex, lab, office
Landholding Agency: GSA
Property Number: 54200130012
Status: Excess
Comment: Historic Preservation Covenants
will impact reuse, property will not be
parcelized for disposal, high cost
associated w/maintenance, estimated cost
to renovate \$17 million
GSA Number : 4-D-MD-558-B

Michigan

Natl Weather Svc Ofc
214 West 14th Ave.
Sault Ste. Marie Co: Chippewa MI
Landholding Agency: GSA
Property Number: 54200120010
Status: Excess
Comment: 2230 sq. ft., presence of asbestos,
most recent use—office
GSA Number : 1-C-MI-802

Minnesota

MG Clement Trott Mem. USARC
Walker Co: Cass MN 56484—
Landholding Agency: GSA
Property Number: 54199930003
Status: Excess
Comment: 4320 sq. ft. training center and
1316 sq. ft. vehicle maintenance shop,
presence of environmental conditions
GSA Number : 1-D-MN-575

Missouri

Hardesty Federal Complex
607 Hardesty Avenue
Kansas City Co: Jackson MO 64124-3032
Landholding Agency: GSA
Property Number: 54199940001
Status: Excess
Comment: 7 warehouses and support
buildings (540 to 216,000 sq. ft.) on 17.47
acres, major rehab, most recent use—
storage/office, utilities easement
GSA Number : 7-G-MO-637

North Carolina

Tarheel Army Missile Plant
Burlington Co: Alamance NC 27215—
Landholding Agency: GSA
Property Number: 54199820002
Status: Excess
Comment: 31 bldgs., presence of asbestos,
most recent use—admin., warehouse,
production space and 10.04 acres parking
area, contamination at site—environmental
clean up in process
GSA Number : 4-D-NC-593

Vehicle Maint. Facility

310 New Bern Ave.
Raleigh Co: Wake NC 27601—
Landholding Agency: GSA
Property Number: 54200020012
Status: Excess
Comment: 10,455 sq. ft., most recent use—
maintenance garage
GSA Number : NC076AB

Tennessee

3 Facilities, Guard Posts
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930011
Status: Surplus
Comment: 48-64 sq. ft., most recent use—
access control, property was published in
error as available on 2/11/00
GSA Number : 4-D-TN-594F
4 Bldgs.
Volunteer Army Ammunition Plant
Railroad System Facilities
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930012
Status: Surplus
Comment: 144-2,420 sq. ft., most recent
use—storage/rail weighing facilities/dock,
potential use restrictions, property was
published in error as available on 2/11/00
GSA Number : 4-D-TN-594F

200 bunkers

Volunteer Army Ammunition Plant
Storage Magazines
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930014
Status: Surplus
Comment: approx. 200 concrete bunkers
covering a land area of approx. 4000 acres,
most recent use—storage/buffer area,
potential use restrictions, property was
published in error as available on 2/11/00
GSA Number : 4-D-TN-594F

Bldg. 232

Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930020
Status: Surplus
Comment: 10,000 sq. ft., most recent use—
office, presence of asbestos, approx. 5 acres
associated w/bldg., potential use
restrictions, property was published in
error as available on 2/11/00
GSA Number : 4-D-TN-594F

2 Laboratories

Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421—
Landholding Agency: GSA
Property Number: 54199930021

Status: Surplus
 Comment: 2000–12,000 sq. ft., potential use/
 lease restrictions, property was published
 in error as available on 2/11/00
 GSA Number: 4–D–TN–594F

3 Facilities
 Volunteer Army Ammunition Plant
 Water Distribution Facilities
 Chattanooga Co: Hamilton TN 37421–

Landholding Agency: GSA
 Property Number: 54199930022
 Status: Surplus

Comment: 256–15,204 sq. ft., 35.86 acres
 associated w/bldgs., most recent use—
 water distribution system, potential use/
 lease restrictions, property was published
 in error as available on 2/11/00
 GSA Number: 4–D–TN–594F

Naval Hospital
 5720 Integrity Drive
 Millington Co: Shelby TN 38054–
 Location: Bldgs. 98, 100, 103, 105, 111, 114,
 116, 117, 118
 Landholding Agency: GSA
 Property Number: 54200020005
 Status: Excess
 Comment: 9 bldgs., various sq. ft., need major
 rehab

GSA Number : 4–N–TN–648

Marine Corps Rsv Center
 2109 W. Market St.
 Johnson City Co: Washington TN 37604–
 Landholding Agency: GSA
 Property Number: 54200120003
 Status: Surplus

Comment: Republished; 4 bldgs., presence of
 asbestos/lead paint, possible
 environmental restrictions, most recent
 use—training/storage
 GSA Number : 4–N–TN–0651

Virginia

Naval Medical Clinic
 6500 Hampton Blvd.
 Norfolk Co: Norfolk VA 23508–
 Landholding Agency: Navy
 Property Number: 77199010109
 Status: Unutilized
 Comment: 3665 sq ft., 1 story, possible
 asbestos, most recent use-laundry.

Wisconsin

Wausau Federal Building
 317 First Street
 Wausau Co: Marathon WI 54401–
 Landholding Agency: GSA
 Property Number: 54199820016
 Status: Excess
 Comment: 30,500 sq. ft., presence of asbestos,
 eligible for listing on the Natl Register of
 Historic Places, most recent use—office
 GSA Number : 1–G–WI–593

Army Reserve Center
 401 Fifth Street
 Kewaunee Co: WI 54216–1838
 Landholding Agency: GSA
 Property Number: 54199940004
 Status: Excess

Comment: 2 admin. bldgs. (15,593 sq. ft.), 1
 garage (1325 sq. ft.), need repairs, property
 was published in error as available on 2/
 11/00

GSA Number : 1–D–WI–597

Land (by State)

Florida

Lakeland Federal Property

N. Florida Ave. & Five Oaks St.
 Lakeland Co: Polk FL 33806–
 Landholding Agency: GSA
 Property Number: 54200140001
 Status: Surplus
 Comment: 2.46 acres, former commercial use,
 environmental remediation in process
 GSA Number : 4–G–FL–1092

Mississippi

Proposed Site
 Army Reserve Center
 Waynesboro Co: Wayne MS 39367–
 Landholding Agency: GSA
 Property Number: 54200010005
 Status: Excess

Comment: 7.60 acres, most recent use—pine
 plantation, periodic flooding, possible
 wetlands on 30–40% of property
 GSA Number : 4–D–MS–0555

Puerto Rico

La Hueca—Naval Station
 Roosevelt Roads
 Vieques PR 00765–
 Landholding Agency: GSA
 Property Number: 54199420006
 Status: Excess
 Comment: 323 acres, cultural site

Tennessee

1500 acres
 Volunteer Army Ammunition Plant
 Chattanooga Co: Hamilton TN 37421–
 Landholding Agency: GSA
 Property Number: 54199930015
 Status: Surplus
 Comment: scattered throughout facility, most
 recent use—buffer area, steep topography,
 potential use restrictions, property was
 published in error as available on 2/11/00
 GSA Number : 4–D–TN–594F

Virginia

Naval Base
 Norfolk Co: Norfolk VA 23508–
 Location: Northeast corner of base, near
 Willoughby housing area.
 Landholding Agency: Navy
 Property Number: 77199010156
 Status: Unutilized
 Comment: 60 acres; most recent use—
 sandpit; secured area with alternate access.

2.6 acres

Naval Station
 Norfolk Co: VA 23508–1273
 Landholding Agency: Navy
 Property Number: 77200120131
 Status: Underutilized
 Comment: most recent use—brush/debris
 storage

1.15 acres
 Naval Amphibious Base Little Creek

Norfolk Co: VA 23508–
 Landholding Agency: Navy
 Property Number: 77200120132
 Status: Unutilized
 Comment: most recent use—open space

Unsuitable Properties

Buildings (by State)

Alabama

Sand Island Light House
 Gulf of Mexico
 Mobile AL
 Landholding Agency: GSA
 Property Number: 54199610001
 Status: Excess

Reason: Inaccessible
 GSA Number : 4–U–AL–763
 Mobile Point Light
 Gulf Shores Co: Baldwin AL 36542–
 Landholding Agency: GSA
 Property Number: 54199940011
 Status: Excess
 Reason: Within 2000 ft. of flammable or
 explosive material
 GSA Number : 4–U–AL–767

Federal Building
 999 West Main Street
 Centre Co: Cherokee AL 35960
 Landholding Agency: GSA
 Property Number: 54200130003
 Status: Excess
 Reason: Within airport runway clear zone
 GSA Number : 4–G–AL–770

Arizona

Bldg. 958
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200040001
 Status: Excess
 Reason: Extensive deterioration

Bldg. 1216
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200040002
 Status: Excess
 Reason: Extensive deterioration

Bldg. 676
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200040003
 Status: Excess
 Reason: Extensive deterioration

Bldg. 321
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110001
 Status: Excess
 Reason: Extensive deterioration

Bldg. 322
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110002
 Status: Excess
 Reason: Extensive deterioration

Bldg. 331
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110003
 Status: Excess
 Reason: Extensive deterioration

Bldg. 332
 Marine Corps Air Station
 Yuma Co: AZ 85369–
 Landholding Agency: Navy
 Property Number: 77200110004
 Status: Excess
 Reason: Extensive deterioration

California
 Bldgs. 20106, 20195
 Naval Air Weapons Station

China Lake Co: CA 93555–
Landholding Agency: Navy
Property Number: 77199930001
Status: Excess
Reasons: Secured Area, Extensive deterioration
Bldgs. 40, 62
Naval Air Station, North Island
Imperial Beach Co: CA 91932–
Landholding Agency: Navy
Property Number: 77199930024
Status: Excess
Reason: Extensive deterioration
Bldg. 5UT4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930081
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5US4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930082
Status: Unutilized
Reason: Extensive deterioration
Bldg. 127
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930083
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930084
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930085
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930086
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5A9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930087
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930088
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930089

Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930090
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5B9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930091
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930092
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930093
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930094
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5C9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930095
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D1
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930096
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D2
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930097
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D3
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930098
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930099
Status: Unutilized
Reason: Extensive deterioration
Bldg. 5D5
Marine Corps Recruit Depot

San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930100
Status: Unutilized
Reason: Extensive deterioration
Bldg. 432
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930106
Status: Unutilized
Reason: Extensive deterioration
Bldg. 433
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930107
Status: Unutilized
Reason: Extensive deterioration
Bldg. 435
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930108
Status: Unutilized
Reason: Extensive deterioration
Bldg. 456
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930109
Status: Unutilized
Reason: Extensive deterioration
Bldg. 921
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930110
Status: Unutilized
Reason: Extensive deterioration
Bldg. 201
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940002
Status: Unutilized
Reason: Extensive deterioration
Bldg. 205
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940003
Status: Unutilized
Reason: Extensive deterioration
Bldg. 227
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940004
Status: Unutilized
Reason: Extensive deterioration
Bldg. 230
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940005
Status: Unutilized
Reason: Extensive deterioration
Bldg. 232
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940006
Status: Unutilized

Reason: Extensive deterioration
Bldg. 337
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940007
Status: Unutilized
Reason: Extensive deterioration
Bldg. 338
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940008
Status: Unutilized
Reason: Extensive deterioration
Bldg. 339
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940009
Status: Unutilized
Reason: Extensive deterioration
Bldg. 349
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940010
Status: Unutilized
Reason: Extensive deterioration
Bldg. 362
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940011
Status: Unutilized
Reason: Extensive deterioration
Bldg. 363
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940012
Status: Unutilized
Reason: Extensive deterioration
Bldg. 410
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940013
Status: Unutilized
Reason: Extensive deterioration
Bldg. 438
Naval Weapons Station
Fallbrook Co: CA 92028-3187
Landholding Agency: Navy
Property Number: 77199940014
Status: Unutilized
Reason: Extensive deterioration
Bldg. 17A
Marine Corps Logistics Base
Barstow Co: San Bernardino CA 92311-
Landholding Agency: Navy
Property Number: 77200020001
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 3314
Marine Corps Air Station
Miramar Co: CA 92145-
Landholding Agency: Navy
Property Number: 77200020035
Status: Excess
Reason: Extensive deterioration
Bldgs. 5157, 5158
Construction Battalion Center

Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200020045
Status: Unutilized
Reason: Secured Area
Facility 13181
Camp Pendleton
Camp Pendleton Co: CA 92055-
Landholding Agency: Navy
Property Number: 77200020046
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Facility 14220
Camp Pendleton
Camp Pendleton Co: CA 92055-
Landholding Agency: Navy
Property Number: 77200020047
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 23025
Marine Corps Air Station
Miramar Co: CA 92132-
Landholding Agency: Navy
Property Number: 77200030001
Status: Unutilized
Reason: Secured Area
Bldg. 23027
Marine Corps Air Station
Miramar Co: CA 92132-
Landholding Agency: Navy
Property Number: 77200030002
Status: Unutilized
Reason: Secured Area
Bldg. 731
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030003
Status: Excess
Reason: Extensive deterioration
Bldg. 731A
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030004
Status: Excess
Reason: Extensive deterioration
Bldg. 865
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030005
Status: Excess
Reason: Extensive deterioration
Bldg. 868
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030006
Status: Excess
Reason: Extensive deterioration
Bldg. 474
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030007
Status: Excess

Reason: Extensive deterioration
Bldg. 5021
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030008
Status: Excess
Reason: Extensive deterioration
Bldg. 5022
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030009
Status: Excess
Reason: Extensive deterioration
Bldg. 5025
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030010
Status: Excess
Reason: Extensive deterioration
Bldg. 5113
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-
Landholding Agency: Navy
Property Number: 77200030011
Status: Excess
Reason: Extensive deterioration
Bldg. 5114
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030012
Status: Excess
Reason: Extensive deterioration
Bldgs. 82 & 84
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030013
Status: Excess
Reason: Extensive deterioration
Bldg. 6-1
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030014
Status: Excess
Reason: Extensive deterioration
Bldg. 479
Naval Construction Battalion Ctr.
Port Hueneme
Oxnard Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030015
Status: Excess
Reason: Extensive deterioration
Bldg. 1362
Marine Corps Base
Camp Pendleton Co: CA 92055-
Landholding Agency: Navy
Property Number: 77200030030
Status: Excess
Reason: Extensive deterioration
Bldg. 801
Naval Air Station

Point Mugu
Oxnard Co: Ventura CA 93042-5001
Landholding Agency: Navy
Property Number: 77200030043
Status: Unutilized
Reason: Extensive deterioration
Bldg. 41
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030044
Status: Unutilized
Reason: Extensive deterioration
Bldg. 103
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030045
Status: Unutilized
Reason: Extensive deterioration
Bldg. 259
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030046
Status: Unutilized
Reason: Extensive deterioration
Bldg. 260
Naval Const. Battalion Ctr
Port Hueneme Co: CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030047
Status: Unutilized
Reason: Extensive deterioration
Bldg. 274
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030048
Status: Unutilized
Reason: Extensive deterioration
Bldg. 462
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030049
Status: Unutilized
Reason: Extensive deterioration
Bldg. 488
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030050
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1150
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030051
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1156
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030052
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1275
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030053
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1321
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043-4301
Landholding Agency: Navy
Property Number: 77200030054
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21091
Marine Corps Air Station
Miramar Co: San Diego CA 92132-
Landholding Agency: Navy
Property Number: 77200030058
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21127
Marine Corps Air Station
Miramar Co: San Diego CA 92132-
Landholding Agency: Navy
Property Number: 77200030059
Status: Unutilized
Reason: Extensive deterioration
Bldg. 9919
Marine Corps Air Station
Miramar Co: San Diego CA 92132-
Landholding Agency: Navy
Property Number: 77200030060
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1468
Naval Base Ventura on Parcel 1
Port Hueneme Co: Ventura CA 93042-5000
Landholding Agency: Navy
Property Number: 77200110013
Status: Unutilized
Reason: Secured Area
Bldg. 1469
Naval Base Ventura on Parcel 1
Port Hueneme Co: Ventura CA 93042-5000
Landholding Agency: Navy
Property Number: 77200110014
Status: Unutilized
Reason: Secured Area
Bldg. 12041
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110065
Status: Excess
Reason: Extensive deterioration
Bldg. 12052
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110066
Status: Excess
Reason: Extensive deterioration
Bldg. 16066
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110067
Status: Excess
Reason: Extensive deterioration
Bldg. 16074
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110068
Status: Excess
Reason: Extensive deterioration
Bldg. 16085
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110069
Status: Excess
Reason: Extensive deterioration
Bldg. 16086
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110070
Status: Excess
Reason: Extensive deterioration
Bldg. 16100
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110071
Status: Excess
Reason: Extensive deterioration
Bldg. 16115
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110072
Status: Excess
Reason: Extensive deterioration
Bldg. 16117
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200110073
Status: Excess
Reason: Extensive deterioration
Bldg. 467
Marine Corps Recruit Depot
San Diego Co: CA 92132-
Landholding Agency: Navy
Property Number: 77200110100
Status: Unutilized
Reason: Secured Area
Bldg. 121 SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120001
Status: Excess
Reason: Extensive deterioration
Bldg. 121A SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120002
Status: Excess
Reason: Extensive deterioration
Bldg. 121B SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120003
Status: Excess
Reason: Extensive deterioration
Bldg. 137 SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120004
Status: Excess
Reason: Extensive deterioration
Bldg. 223 SNI
Naval Air Weapons Station
China Lake Co: CA 93555-6100
Landholding Agency: Navy
Property Number: 77200120005
Status: Excess

Reason: Extensive deterioration
 Bldg. 01289
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120089
 Status: Excess
 Reason: Extensive deterioration
 Bldg. PM1529
 Point Mugu, Naval Base
 Oxnard Co: Ventura CA 93042-5001
 Landholding Agency: Navy
 Property Number: 77200120094
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. PM1606
 Point Mugu, Naval Base
 Oxnard Co: Ventura CA 93042-5001
 Landholding Agency: Navy
 Property Number: 77200120095
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 70140
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120107
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 70141
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120108
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 70143
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200120109
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 25062
 Naval Air Weapons Station
 China Lake Co: CA 93555-6001
 Landholding Agency: Navy
 Property Number: 77200120114
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 33023
 Naval Air Weapons Station
 China Lake Co: CA 93555-6001
 Landholding Agency: Navy
 Property Number: 77200120115
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 33054
 Naval Air Weapons Station
 China Lake Co: CA 93555-6001
 Landholding Agency: Navy
 Property Number: 77200120116
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 36
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130001
 Status: Unutilized
 Reason: Extensive deterioration
 Bldgs. 60, 61, 64, 65
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-

Landholding Agency: Navy
 Property Number: 77200130002
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 171
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130003
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 278
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130004
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 351
 Marine Corps Logistics Base
 Barstow Co: San Bernardino CA 92311-
 Landholding Agency: Navy
 Property Number: 77200130005
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 130
 Naval Station
 San Diego Co: CA 92132-
 Landholding Agency: Navy
 Property Number: 77200130006
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 415
 Naval Station
 San Diego Co: CA 92132-
 Landholding Agency: Navy
 Property Number: 77200130007
 Status: Excess
 Reason: Extensive deterioration
 Structure 20104
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130008
 Status: Excess
 Reason: Extensive deterioration
 Structure 31424
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130009
 Status: Excess
 Reason: Extensive deterioration
 Structure 31592
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130010
 Status: Excess
 Reason: Extensive deterioration
 Facility 26
 Naval Weapons Station
 Seal Beach Co: CA 90740-5000
 Landholding Agency: Navy
 Property Number: 77200130011
 Status: Unutilized
 Reason: Secured Area
 Bldg. 114
 Naval Air Facility
 El Centro Co: Imperial CA 92243-
 Landholding Agency: Navy
 Property Number: 77200130016
 Status: Unutilized
 Reason: Extensive deterioration

Bldg. 375
 Naval Air Facility
 El Centro Co: Imperial CA 92243-
 Landholding Agency: Navy
 Property Number: 77200130017
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 376
 Naval Air Facility
 El Centro Co: Imperial CA 92243-
 Landholding Agency: Navy
 Property Number: 77200130018
 Status: Unutilized
 Reason: Extensive deterioration
 Bldgs. 11070, 11080
 Naval Air Weapons Station
 China Lake Co: CA 93555-6100
 Landholding Agency: Navy
 Property Number: 77200130025
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 471
 Marine Corps Recruit Depot
 San Diego Co: CA 92132-
 Landholding Agency: Navy
 Property Number: 77200130103
 Status: Unutilized
 Reason: Secured Area
 Bldg. PM7002
 Point Mugu Site Naval Base
 Oxnard Co: Ventura CA 93042-5000
 Landholding Agency: Navy
 Property Number: 77200140001
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. 1244
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140002
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1331
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140003
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1364
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140004
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1674
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140005
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1229
 Marine Corps Base
 Camp Pendleton Co: CA 92055-
 Landholding Agency: Navy
 Property Number: 77200140006
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1242
 Marine Corps Base
 Camp Pendleton Co: CA 92055-

Landholding Agency: Navy
 Property Number: 77200140007
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1243
 Marine Corps Base
 Camp Pendleton Co: CA 92055–
 Landholding Agency: Navy
 Property Number: 77200140008
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1253
 Marine Corps Base
 Camp Pendleton Co: CA 92055–
 Landholding Agency: Navy
 Property Number: 77200140009
 Status: Excess
 Reason: Extensive deterioration
 Bldg. PM388
 Naval Air Station, Point Mugu
 Oxnard Co: Ventura CA 93042–5000
 Landholding Agency: Navy
 Property Number: 77200140010
 Status: Unutilized
 Reason: Extensive deterioration
 Colorado
 Bldg. 34
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199540001
 Status: Underutilized
 Reasons: Contamination, Secured Area
 Bldg. 35
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199540002
 Status: Underutilized
 Reasons: Contamination, Secured Area
 Bldg. 36
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199540003
 Status: Underutilized
 Reasons: Contamination, Secured Area
 Bldg. 2
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610039
 Status: Unutilized
 Reasons: Contamination, Secured Area
 Bldg. 7
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610040
 Status: Unutilized
 Reasons: Contamination, Secured Area
 Bldg. 31–A
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610041
 Status: Unutilized
 Reasons: Contamination, Secured Area
 Bldg. 33
 Grand Junction Projects Office
 Grand Junction Co: Mesa CO 81503–
 Landholding Agency: Energy
 Property Number: 41199610042
 Status: Unutilized

Reasons: Contamination, Secured Area
 Bldg. 727
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910001
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 729
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910002
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 779
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910003
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 780
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910004
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 780A
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910005
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 780B
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910006
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 782
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910007
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 783
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910008
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 784(A–D)
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910009
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 785

Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910010
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 786
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910011
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 787(A–D)
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910012
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 875
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910013
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 880
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910014
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 886
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910015
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 308A
 Rocky Flats Env. Tech. Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910016
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 788
 Rocky Flats Env. Tech. site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199910017
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 888
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930001
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or
 explosive material, Secured Area
 Bldg. 714 A/B
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–

Landholding Agency: Energy
 Property Number: 41199930021
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 717
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930022
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 770
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930023
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 771
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930024
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 771B
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930025
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 771C
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930026
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 772–772A
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930027
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 773
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930028
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 774
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41199930029
 Status: Underutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 776
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010001

Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 777
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010002
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 778
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010003
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 712–712A
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010004
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 713–713A
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010005
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 771 TUN
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010006
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Structure 776A–781
 Rocky Flats Environmental Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200010007
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldgs. 111, 111B
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200030001
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 125
 Rocky Flats Env. Tech. Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120001
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 333
 Rocky Flats Env. Tech. Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120002
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 762
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120003
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 762A
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120004
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 792
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120005
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Bldg. 792A
 Rocky Flats Env. Tech Site
 Golden Co: Jefferson CO 80020–
 Landholding Agency: Energy
 Property Number: 41200120006
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
 Connecticut
 Bldgs. 25 and 26
 Prospect Hill Road
 Windsor Co: Hartford CT 06095–
 Landholding Agency: Energy
 Property Number: 41199440003
 Status: Excess
 Reason: Secured Area
 9 Bldgs.
 Knolls Atomic Power Lab, Windsor Site
 Windsor Co: Hartford CT 06095–
 Landholding Agency: Energy
 Property Number: 41199540004
 Status: Excess
 Reason: Secured Area
 Bldg. 8, Windsor Site
 Knolls Atomic Power Lab
 Windsor Co: Hartford CT 06095–
 Landholding Agency: Energy
 Property Number: 41199830006
 Status: Unutilized
 Reason: Extensive deterioration
 District Of Columbia
 Bldg. A–092
 Naval Station Anacostia
 Washington Co: DC 20374–
 Landholding Agency: Navy
 Property Number: 77200110046
 Status: Underutilized
 Reason: Secured Area
 Bldg. A–150
 Naval District
 Anacostia Annex
 Washington Co: DC 20374–
 Landholding Agency: Navy
 Property Number: 77200140016
 Status: Unutilized
 Reason: Extensive deterioration
 Bldg. A–057
 Naval District
 Anacostia Annex

Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140017
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–087/002
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140018
Status: Unutilized
Reason: Extensive deterioration
Florida
Cape St. George Lighthouse
St. George Island Co: Franklin FL 32328–
Landholding Agency: GSA
Property Number: 54199940012
Status: Excess
Reasons: Floodway, Extensive deterioration
GSA Number : 4–U–FL–1167
Boca Grande Range
Rear Light
Gasparilla Island Co: Lee FL 33921–
Landholding Agency: GSA
Property Number: 54199940013
Status: Excess
Reason: Floodway
GSA Number : 4–U–FL–1169
Sanibel Island Light
Sanibel Co: Lee FL 33957–
Landholding Agency: GSA
Property Number: 54199940014
Status: Excess
Reason: Floodway
GSA Number : 4–U–FL–1162
U.S. Courthouse 311 West Monroe Street
Jacksonville Co: Duval FL 32209–
Landholding Agency: GSA
Property Number: 54200140010
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 4–G–FL–1178
U.S. Customs House 1700 Spangler
Boulevard
Hollywood Co: Broward FL 33316–
Landholding Agency: GSA
Property Number: 54200140012
Status: Surplus
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
GSA Number : 4–G–FL–1173
Bldg. 1558
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 7L
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010004
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 7H
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020064
Status: Unutilized

Reasons: Secured Area
Extensive deterioration
Bldg. 7J
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020065
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 7K
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020066
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 135
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020068
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 211
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200020077
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 62
NAS Jacksonville
Altoona Co: Marion FL 32702–
Landholding Agency: Navy
Property Number: 77200020111
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 94
NAS Jacksonville
Altoona Co: Marion FL 32702–
Landholding Agency: Navy
Property Number: 77200020112
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 114
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040006
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
Bldg. 133
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040007
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
Bldg. 141
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040008

Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
16 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 142, 151, 153, 156, 164, 170, 171,
176, 178, 180, 182–187
Landholding Agency: Navy
Property Number: 77200040009
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
11 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 103, 105, 112, 113, 115–119, 121,
122
Landholding Agency: Navy
Property Number: 77200040010
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
23 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 143–150, 152, 154, 155, 157, 158,
160–163, 165, 166, 168, 169, 179, 181
Landholding Agency: Navy
Property Number: 77200040011
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 173, 174, 175, 177, 188
Landholding Agency: Navy
Property Number: 77200040012
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
6 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 130–132, 134–136
Landholding Agency: Navy
Property Number: 77200040013
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
Bldgs. 159, 167, 172
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040014
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 124, 127, 138–140
Landholding Agency: Navy
Property Number: 77200040015
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area

5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 107, 109, 111, 120, 123
Landholding Agency: Navy
Property Number: 77200040016
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area

5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 102, 104, 106, 108, 110
Landholding Agency: Navy
Property Number: 77200040017
Status: Underutilized
Reasons: Within airport runway clear zone,
Secured Area

Bldg. 172
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200130012
Status: Unutilized
Reason: Extensive deterioration

Bldg. 146
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130070
Status: Underutilized
Reason: Secured Area

Bldg. 679
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130071
Status: Underutilized
Reason: Secured Area

Bldg. 680
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130072
Status: Unutilized
Reason: Secured Area

Bldg. 743
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130073
Status: Unutilized
Reason: Secured Area

Bldg. 782
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130074
Status: Underutilized
Reason: Secured Area

Bldg. 782A
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130075
Status: Unutilized
Reason: Secured Area

Bldg. 1082
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130076

Status: Underutilized
Reason: Secured Area
Bldg. 1536
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130077
Status: Unutilized
Reason: Secured Area

Bldg. 1567
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130078
Status: Unutilized
Reason: Secured Area

Bldg. 1735
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130079
Status: Underutilized
Reason: Secured Area

Bldg. 1813
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130080
Status: Unutilized
Reason: Secured Area

Bldg. 2666
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130081
Status: Unutilized
Reason: Secured Area

Bldg. 3278
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130082
Status: Unutilized
Reason: Secured Area

Bldg. 3378
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130083
Status: Unutilized
Reason: Secured Area

Bldg. 3589
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130084
Status: Underutilized
Reason: Secured Area

Hawaii
Bldg. 126, Naval Magazine
Waikale Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Extensive
Deterioration, Secured Area

Bldg. Q75, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230013

Status: Unutilized
Reasons: Extensive Deterioration, Secured
Area

Bldg. 7, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230014
Status: Unutilized
Reasons: Extensive Deterioration, Secured
Area

Bldg. 9
Navy Public Works Center
Kolekole Road
Lualualei Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530009
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. X5
Nanumea Road
Pearl Harbor Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530010
Status: Excess
Reason: Secured Area

Bldg. SX30
Nanumea Road
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199530011
Status: Excess
Reason: Secured Area

Bldg. 98
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199620032
Status: Excess
Reason: Extensive deterioration

Bldg. Q13
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640035
Status: Unutilized
Reason: Extensive deterioration

Bldg. Q14
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640036
Status: Unutilized
Reason: Extensive deterioration

Bldg. 40
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830028
Status: Unutilized
Reason: Extensive deterioration

Bldg. 50
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830029
Status: Unutilized
Reason: Extensive deterioration

Bldg. Q76
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830030

Status: Unutilized
Reason: Extensive deterioration
Bldg. Q334
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830031
Status: Unutilized

Reason: Extensive deterioration
Bldg. Q410
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830034
Status: Unutilized

Reason: Extensive deterioration
Bldg. Q422
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830035
Status: Unutilized

Reason: Extensive deterioration
Bldg. 429
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830036
Status: Unutilized

Reason: Extensive deterioration
Bldg. 431
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830037
Status: Unutilized

Reason: Extensive deterioration
Bldg. 447
Naval Magazine Lualualei
Co: Oahu HI 96792-4301
Landholding Agency: Navy
Property Number: 77199830038
Status: Unutilized

Reason: Extensive deterioration
Facility S-721
Naval Station
Pearl Harbor Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 77199840042
Status: Excess

Reason: Secured Area

Facility 19
Naval Station
Pearl Harbor Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 77199840045
Status: Excess
Reason: Secured Area

Facility SX30
Navy Public Works Center
Pearl Harbor Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 77199920027
Status: Excess
Reasons: Secured Area Extensive deterioration

Idaho

Bldg. PBF-621
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610001
Status: Unutilized

Reason: Secured Area

Bldg. CPP-691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reason: Secured Area

Bldg. CPP-625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610004
Status: Unutilized
Reason: Secured Area

Bldg. CPP-650
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610005
Status: Unutilized
Reason: Secured Area

Bldg. CPP-608
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610006
Status: Unutilized
Reason: Secured Area

Bldg. TAN-660
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610007
Status: Unutilized
Reason: Secured Area

Bldg. TAN-636
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610008
Status: Unutilized
Reason: Secured Area

Bldg. TAN-609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610009
Status: Unutilized
Reason: Secured Area

Bldg. TAN-670
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610010
Status: Unutilized
Reason: Secured Area

Bldg. TAN-661
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610011
Status: Unutilized
Reason: Secured Area

Bldg. TAN-657
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610012
Status: Unutilized
Reason: Secured Area

Bldg. TRA-669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-

Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reason: Secured Area

Bldg. TAN-637
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610014
Status: Unutilized
Reason: Secured Area

Bldg. TAN-635
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610015
Status: Unutilized
Reason: Secured Area

Bldg. TAN-638
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610016
Status: Unutilized
Reason: Secured Area

Bldg. TAN-651
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610017
Status: Unutilized
Reason: Secured Area

Bldg. TRA-673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF-620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF-616
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610020
Status: Unutilized
Reason: Secured Area

Bldg. PBF-617
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610021
Status: Unutilized
Reason: Secured Area

Bldg. PBF-619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF-624
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610023
Status: Unutilized
Reason: Secured Area

Bldg. PBF-625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF-629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized
Reason: Secured Area

Bldg. PBF-604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. TRA-641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF-606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

TAN 602, 631, 663, 702, 724
Idaho Natl Engineering & Environmental Lab
Test Area North
Scoville Co: Butte ID 83415-
Landholding Agency: Energy
Property Number: 41199830002
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

8 Bldgs.
Idaho Natl Engineering & Environmental Lab
Test Reactor North
Scoville Co: Butte ID 83415-
Location: TRA 643, 644, 655, 660, 704-706,
755
Landholding Agency: Energy
Property Number: 41199830003
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Illinois

Navy Family Housing
18-units
Hanna City Co: Peoria IL 61536-
Landholding Agency: GSA
Property Number: 54199940018
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
GSA Number : 1-N-IL-723

Bldg. 415
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840023
Status: Unutilized
Reason: Secured Area

Bldg. 1015
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840024
Status: Unutilized
Reason: Secured Area

Bldg. 1016
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840025
Status: Unutilized
Reason: Secured Area

Bldg. 910
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920055
Status: Unutilized
Reason: Secured Area

Bldg. 800
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920056
Status: Unutilized
Reason: Secured Area

Bldg. 1000
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920057
Status: Unutilized
Reason: Secured Area

Bldg. 1200
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920058
Status: Unutilized
Reason: Secured Area

Bldg. 1400
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920059
Status: Unutilized
Reason: Secured Area

Bldg. 1600
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920060
Status: Unutilized
Reason: Secured Area

Bldg. 2600
Naval Training Center
Great Lakes Co: IL 60088-5000
Landholding Agency: Navy
Property Number: 77199920061
Status: Unutilized
Reason: Secured Area

Kansas

Sunflower AAP
DeSoto Co: Johnson KS 66018-
Landholding Agency: GSA
Property Number: 54199830010
Status: Excess
Reason: Extensive deterioration
GSA Number: 7-D-KS-0581

Louisiana

Weeks Island Facility
New Iberia Co: Iberia Parish LA 70560-
Landholding Agency: Energy
Property Number: 41199610038
Status: Underutilized
Reason: Secured Area

Maryland

15 Bldgs.
Naval Air Warfare Center
Patuxent River Co: St. Mary's MD 20670-
5304
Landholding Agency: Navy
Property Number: 77199730062
Status: Unutilized
Reason: Extensive deterioration

Bldg. 867
Naval Air Station
Patuxent River Co: MD 20670-
Landholding Agency: Navy
Property Number: 77200120010
Status: Excess
Reason: Extensive deterioration

Bldg. 868
Naval Air Station
Patuxent River Co: MD 20670-
Landholding Agency: Navy
Property Number: 77200120011
Status: Excess
Reason: Extensive deterioration

Bldg. 1044
Naval Air Station
Patuxent River Co: MD 20670-
Landholding Agency: Navy
Property Number: 77200120012
Status: Excess
Reason: Extensive deterioration

Bldg. S-038
Naval District
Solomons Complex
Solomons Co: MD 20688-0147
Landholding Agency: Navy
Property Number: 77200140013
Status: Unutilized
Reason: Extensive deterioration

Bldg. S-046
Naval District
Solomons Complex
Solomons Co: MD 20688-0147
Landholding Agency: Navy
Property Number: 77200140014
Status: Unutilized
Reason: Extensive deterioration

Bldg. F-1676
Naval Air Facility
Andrews AFB Co: MD 20762-5518
Landholding Agency: Navy
Property Number: 77200140015
Status: Unutilized
Reason: Extensive deterioration

Michigan

Navy Housing
64 Barberr Drive
Springfield Co: Calhoun MI 49015-
Landholding Agency: GSA
Property Number: 54200020013
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
GSA Number: 1-N-MI-795

Stroh Army Reserve Center
17825 Sherwood Ave.
Detroit Co: Wayne MI 00000-

Landholding Agency: GSA
 Property Number: 54200040001
 Status: Surplus
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-D-MI-798
 Minnesota
 Naval Ind. Rsv Ordnance Plant
 Minneapolis Co: MN 55421-1498
 Landholding Agency: GSA
 Property Number: 54199930004
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number : 1-N-MN-570
 Nike Battery Site, MS-40
 Castle Rock Township
 Farmington Co: Dakota MN 00000-
 Landholding Agency: GSA
 Property Number: 54200020004
 Status: Surplus
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-I-MN-451-B
 Mississippi
 Bldg. 12
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130029
 Status: Unutilized
 Reason: Secured Area
 Bldg. 23
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130030
 Status: Unutilized
 Reason: Secured Area
 Bldg. 36
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130031
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 141
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130032
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 172
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130033
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 185
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130034
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 220
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy

Property Number: 77200130035
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 236
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130036
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Structure 427
 Naval Construction Battalion Center
 Gulfport Co: Harrison MS 39501-
 Landholding Agency: Navy
 Property Number: 77200130037
 Status: Unutilized
 Reason: Secured Area
 Nebraska
 Sound Signal Station
 Manana Island
 Manana Island Co: Lincoln NE
 Landholding Agency: GSA
 Property Number: 54200210008
 Status: Excess
 Reason: Inaccessible
 GSA Number : 1-U-ME-646B
 Nevada
 6 Bldgs.
 Dale Street Complex, 300, 400, 500, 600,
 Block Bldg, Valve House
 Boulder City Co: NV 89005-
 Landholding Agency: GSA
 Property Number: 54200020017
 Status: Excess
 Reason: Extensive deterioration
 GSA Number: LC-00-01-RP
 New Jersey
 Holmdel Housing Site
 Telegraph Hill Road
 Holmdel Co: Monmouth NJ 07733-
 Location: redetermination based on additional information from landholding agency
 Landholding Agency: GSA
 Property Number: 54200040005
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number : 1-N-NJ-622
 30 Bldgs.
 Camp Charles Wood
 Ft. Monmouth Co: Eatontown NJ
 Landholding Agency: GSA
 Property Number: 54200120008
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-D-NJ-470f
 Nike Battery Site 41/43
 Lot 17 Williamstown Chews Landing Road
 Gloucester Co: Camden NJ
 Location: Village of Sicklerville
 Landholding Agency: GSA
 Property Number: 54200130002
 Status: Excess
 Reason: Extensive deterioration
 GSA Number : 1-GR-NJ-0537
 Bldg. 188
 Naval Air Engineering Station
 Lakehurst Co: Ocean NJ 08733-5000
 Landholding Agency: Navy
 Property Number: 77199830065
 Status: Unutilized

Reason: Extensive deterioration
 Bldg. 473
 Naval Air Engineering Station
 Lakehurst Co: Ocean NJ 08733-5000
 Landholding Agency: Navy
 Property Number: 77199920024
 Status: Unutilized
 Reason: Extensive deterioration
 New Mexico
 Bldgs. 9252, 9268
 Kirtland Air Force Base
 Albuquerque Co: Bernalillo NM 87185-
 Landholding Agency: Energy
 Property Number: 41199430002
 Status: Unutilized
 Reason: Extensive deterioration
 Tech Area II
 Kirtland Air Force Base
 Albuquerque Co: Bernalillo NM 87105-
 Landholding Agency: Energy
 Property Number: 41199630004
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 1, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810001
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 2, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810002
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 24, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810003
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 26, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810004
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 86, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810005
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 88, TA-33
 Los Alamos National Laboratory
 Los Alamos NM 87545-
 Landholding Agency: Energy
 Property Number: 41199810006
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration

Reason: Secured Area
Bldg. 88, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199930006
Status: Unutilized
Reason: Secured Area
Bldg. 89, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199930007
Status: Unutilized
Reason: Secured Area
Bldg. 21, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940001
Status: Unutilized
Reason: Secured Area
Bldg. 57, TA-2
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940002
Status: Unutilized
Reason: Secured Area
Bldg. 28, TA-8
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940003
Status: Unutilized
Reason: Secured Area
Bldg. 38, TA-14
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 8, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940005
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 9, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reason: Secured Area
Bldg. 22, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940007
Status: Unutilized
Reason: Secured Area
Bldg. 141, TA-15
Los Alamos National Lab
Los Alamos Co: NM 87545-
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reason: Secured Area
Bldg. 44, TA-15

Landholding Agency: Energy
 Property Number: 41200010029
 Status: Unutilized
 Reason: Secured Area
 Bldg. 2, TA-8
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200010030
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 3, TA-8
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020001
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 51, TA-9
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020002
 Status: Unutilized
 Reason: Secured Area
 Bldg. 30, TA-14
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020003
 Status: Unutilized
 Reason: Secured Area
 Bldg. 16, TA-3
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020009
 Status: Unutilized
 Reason: Secured Area
 Bldg. 339, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020010
 Status: Unutilized
 Reason: Secured Area
 Bldg. 340, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020011
 Status: Unutilized
 Reason: Secured Area
 Bldg. 341, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020012
 Status: Unutilized
 Reason: Secured Area
 Bldg. 342, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020013
 Status: Unutilized
 Reason: Secured Area
 Bldg. 343, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020014

Status: Unutilized
 Reason: Secured Area
 Bldg. 345, TA-16
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020015
 Status: Unutilized
 Reason: Secured Area
 Bldg. 16, TA-21
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020016
 Status: Unutilized
 Reason: Secured Area
 Bldg. 48, TA-55
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020017
 Status: Unutilized
 Reason: Secured Area
 Bldg. 125, TA-55
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020018
 Status: Unutilized
 Reason: Secured Area
 Bldg. 162, TA-55
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020019
 Status: Unutilized
 Reason: Secured Area
 Bldg. 22, TA-33
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020022
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 23, TA-49
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020023
 Status: Unutilized
 Reason: Secured Area
 Bldg. 37, TA-53
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020024
 Status: Unutilized
 Reason: Secured Area
 Bldg. 121, TA-49
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200020025
 Status: Unutilized
 Reason: Secured Area
 Bldg. 30, TA-21
 Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200040001
 Status: Unutilized
 Reason: Secured Area
 Bldg. 152 TA-21

Los Alamos National Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200040002
 Status: Unutilized
 Reason: Secured Area
 Bldg. 105, TA-3
 Los Alamos Natl Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200120007
 Status: Excess
 Reason: Secured Area
 Bldg. 452, TA-3
 Los Alamos Natl Lab
 Los Alamos Co: NM 87545-
 Landholding Agency: Energy
 Property Number: 41200120008
 Status: Excess
 Reason: Secured Area
 Bldg. N149
 Naval Air Warfare
 White Sands Co: NM 88002-
 Landholding Agency: Navy
 Property Number: 77200110104
 Status: Excess
 Reason: Extensive deterioration
 New York
 Bldg. 577
 Brookhaven National Lab
 Upton Co: Suffolk NY 11973-
 Landholding Agency: Energy
 Property Number: 41199940022
 Status: Excess
 Reason: Extensive deterioration
 Bldg. AT-1
 Knolls Atomic Power Lab
 Niskayuna Co: Schenectady NY 12301-
 Landholding Agency: Energy
 Property Number: 41200010022
 Status: Excess
 Reason: Secured Area
 Bldg. AT-1
 Knolls Atomic Power Lab
 Niskayuna Co: Schenectady NY 12301-
 Landholding Agency: Energy
 Property Number: 41200020020
 Status: Unutilized
 Reason: Secured Area
 North Carolina
 Bldg. M-319
 Marine Corps Base
 Camp Lejeune Co: Onslow NC 28542-
 Landholding Agency: Navy
 Property Number: 77200120127
 Status: Unutilized
 Reason: Secured Area
 Bldg. AS-4040
 Marine Corps Air Station
 New River Co: NC
 Landholding Agency: Navy
 Property Number: 77200210039
 Status: Underutilized
 Reason: Secured Area
 Ohio
 Bldg. 77
 Fernald Environmental Management Project
 Fernald Co: Hamilton OH 45013-
 Landholding Agency: Energy
 Property Number: 41199840003
 Status: Excess
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 82A
Fernald Environmental Mgmt Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 16
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930016
Status: Unutilized
Reason: Secured Area

Bldg. 22B
Fernald Env. Mgmt. Proj.
Hamilton Co: OH 45013–9402
Landholding Agency: Energy
Property Number: 41200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 53A
Fernald Env. Mgmt. Project
Fernald Co: Hamilton OH 45013–9402
Landholding Agency: Energy
Property Number: 41200120009
Status: Excess
Reason: Secured Area

Bldg. 8G
Fernald Environmental Mgmt Project
Hamilton Co: OH 45013–
Landholding Agency: Energy
Property Number: 41200210003
Status: Excess
Reason: Secured Area

Bldg. 8H
Fernald Environmental Mgmt Project
Hamilton Co: OH 45013–
Landholding Agency: Energy
Property Number: 41200210004
Status: Excess
Reason: Secured Area

Bldg. 94A
Fernald Environmental Mgmt Project
Hamilton Co: OH 45013–
Landholding Agency: Energy
Property Number: 41200210005
Status: Excess
Reason: Secured Area

Pennsylvania
Z-Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reason: Extensive deterioration

Puerto Rico
B–38
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830075
Status: Unutilized
Reason: Extensive deterioration

Rhode Island
Bldg. 52
Gould Island, Naval Station
Newport Co: RI 00000–
Landholding Agency: Navy
Property Number: 77199930020

Status: Excess
Reasons: Not accessible by road, Extensive
deterioration

South Carolina
Bldg. 49
Naval Public Works Center
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020062
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 7
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040030
Status: Unutilized
Reason: Secured Area

Bldg. 314
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040031
Status: Unutilized
Reason: Secured Area

South Dakota
Residence
308 8th Ave South
Clearlake Co: Deuel SD 57226–
Landholding Agency: GSA
Property Number: 54200140004
Status: Surplus
Reason: Extensive deterioration
GSA Number: 7–J–SD–0552

Tennessee
Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199720001
Status: Excess
Reason: Extensive deterioration

Bldgs. 9714–3, 9714–4, 9983–AY
Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reason: Secured Area

5 Bldgs.
K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9825
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810027
Status: Unutilized
Reason: Secured Area

Bldg. 3026
Oak Ridge Natl Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199830001
Status: Excess
Reasons: Secured Area, Extensive
deterioration

Bldg. 3505
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199940020
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

9 Bldgs.
E. Tennessee Tech Park
Oak Ridge Co: Roane TN 37831–
Location: K–1001, K–1301, K–1302, K–1303,
K–1404, K–1405–6, K–1407, K–1408A, K–
1413
Landholding Agency: Energy
Property Number: 41200010023
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9723–16
National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200120010
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

5 Bldgs.
Oak Ridge National Lab
#7811, 7819, 7833, 7852, 7860
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41200130001
Status: Unutilized
Reasons: contamination, Secured Area,
Extensive deterioration

Bldg. 81–22
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140001
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9409–26
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140002
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9723–4
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140003
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration

Bldg. 9733-4
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200140004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
4 Bldgs.
Y-12 National Security Complex #9929-1,
9823, 9827 & shed
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200140005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 9949-1
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200140006
Status: Unutilized
Reason: Secured Area
Bldg. 9723-18
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200210006
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Bldg. 9728
Y-12 National Security Complex
Oak Ridge Co: Anderson TN 37831-
Landholding Agency: Energy
Property Number: 41200210007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
22 Bldgs.
Volunteer Army Ammunition Plant
Warehouses (Southern Portion)
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930016
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material, GSA Number: 4-D-TN-594F
17 Bldgs.
Volunteer Army Ammunition Plant
Acid Production
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930017
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material contamination
GSA Number: 4-D-TN-594F
41 Facilities
Volunteer Army Ammunition Plant
TNT Production
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930018
Status: Surplus
Reason: contamination
GSA Number: 4-D-TN-594F
5 Facilities
Volunteer Army Ammunition Plant
Waste Water Treatment
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA

Property Number: 54199930019
Status: Surplus
Reason: Extensive deterioration
GSA Number: 4-D-TN-594F
6 Bldgs.
Volunteer Army Ammunition Plant
Offices (Southern Portion)
Chattanooga Co: Hamilton TN 37421-
Landholding Agency: GSA
Property Number: 54199930023
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4-D-TN-594F
Army Reserve Center #2
360 Ornamental Metal Museum Dr.
Memphis Co: Shelby TN 38106-
Landholding Agency: GSA
Property Number: 54200120004
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
GSA Number: 4-D-TN-0650
20 Bldgs.
Naval Support Activity
Millington Co: Shelby TN 38054-
Location: 766, 1597-1598, 5238, 435-446, S239, S75, 1211, 1379
Landholding Agency: Navy
Property Number: 77199940027
Status: Excess
Reasons: Secured Area, Extensive deterioration
6 Bldgs.
Naval Support Activity
#2003, 2016, 2024, 2025, 2076, 2077
Millington Co: TN 38054-
Landholding Agency: Navy
Property Number: 77200120013
Status: Excess
Reason: Secured Area
Bldg. R23-99
Naval Support Activity
Millington Co: TN 38054-
Landholding Agency: Navy
Property Number: 77200130104
Status: Excess
Reason: Secured Area
5 Bldgs.
Naval Support Activity
Millington Co: TN 38054-
Landholding Agency: Navy
Property Number: 77200130105
Status: Excess
Reason: Secured Area
Texas
Bldgs. 1561, 1562, 1563
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77199820050
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1190
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77199820053
Status: Unutilized
Reason: Secured Area
Bldg. 1820
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200

Landholding Agency: Navy
Property Number: 77199820054
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1504
Naval Air Station
Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200110018
Status: Unutilized
Reason: Extensive deterioration
Facility 119
Naval Air Station
Corpus Christi Co: Nueces TX 78419-5021
Landholding Agency: Navy
Property Number: 77200110047
Status: Excess
Reasons: Within airport runway clear zone, Secured Area, Extensive deterioration
Bldg. 1149
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120014
Status: Unutilized
Reason: Extensive deterioration
Bldg. 4200
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120015
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1173
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120016
Status: Unutilized
Reason: Extensive deterioration.
Bldg. 1268
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120017
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1837
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-6200
Landholding Agency: Navy
Property Number: 77200120018
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1346
Naval Air Station
Ft. Worth Co: Tarrant TX 76127-
Landholding Agency: Navy
Property Number: 77200120156
Status: Excess
Reasons: Secured Area, Extensive deterioration
Facility 16
Naval Air Station
Corpus Christi Co: Nueces TX 78419-5021
Landholding Agency: Navy
Property Number: 77200130085
Status: Excess
Reason: Extensive deterioration
Facility 23
Naval Air Station
Corpus Christi Co: Nueces TX 78419-5021
Landholding Agency: Navy

Property Number: 77200130086
 Status: Excess
 Reason: Extensive deterioration
 Facility 32
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130087
 Status: Excess
 Reason: Extensive deterioration
 Facility 52A
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130088
 Status: Excess
 Reason: Extensive deterioration
 Facility 52B
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130089
 Status: Excess
 Reason: Extensive deterioration
 Facility 52C
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130090
 Status: Excess
 Reason: Extensive deterioration
 Facility 52D
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130091
 Status: Excess
 Reason: Extensive deterioration
 Facility 52E
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130092
 Status: Excess
 Reason: Extensive deterioration
 Facility 168
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130093
 Status: Excess
 Reason: Extensive deterioration
 Facility 306
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130094
 Status: Excess
 Reason: Extensive deterioration
 Facility 330
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130095
 Status: Excess
 Reason: Extensive deterioration
 Facility 372
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130096
 Status: Excess
 Reason: Extensive deterioration
 Facility 383

Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130097
 Status: Excess
 Reason: Extensive deterioration
 Facility 1233
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130098
 Status: Excess
 Reason: Extensive deterioration
 Facility 3589
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130099
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 1298
 Naval Air Station
 Corpus Christi Co: Nueces TX 78419-5021
 Landholding Agency: Navy
 Property Number: 77200130100
 Status: Excess
 Reason: Extensive deterioration
 Virginia
 Bldg. O2
 Naval Weapons Station
 Yorktown Co: York VA 23691-
 Landholding Agency: Navy
 Property Number: 77199810073
 Status: Excess
 Reason: Extensive deterioration
 Bldgs. 358, 359
 Cheatham Annex
 Williamsburg VA 23185-
 Landholding Agency: Navy
 Property Number: 77199820023
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD-43
 Cheatham Annex
 Williamsburg VA 23185-
 Landholding Agency: Navy
 Property Number: 77199820024
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD-102
 Cheatham Annex
 Williamsburg VA 23185-
 Landholding Agency: Navy
 Property Number: 77199820025
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD-102A
 Cheatham Annex
 Williamsburg VA 23185-
 Landholding Agency: Navy
 Property Number: 77199820026
 Status: Excess
 Reason: Extensive deterioration
 Bldg. CAD-127
 Cheatham Annex
 Williamsburg VA 23185-
 Landholding Agency: Navy
 Property Number: 77199820027
 Status: Excess
 Reason: Extensive deterioration
 CAD-40
 Cheatham Annex
 Williamsburg VA 23185-
 Landholding Agency: Navy

Property Number: 77199830084
 Status: Unutilized
 Reasons: Secured Area, Extensive deterioration
 Bldg. 449
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920068
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 450
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920069
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 451
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920070
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 453
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920071
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 454
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920072
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 708
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920073
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 709
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920074
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 710
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920075
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 711
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920076
 Status: Excess
 Reason: Extensive deterioration
 Bldg. 712
 Norfolk Naval Shipyard
 Portsmouth Co: VA 23709-
 Landholding Agency: Navy
 Property Number: 77199920077
 Status: Excess
 Reason: Extensive deterioration

Bldg. 713
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920078
Status: Excess
Reason: Extensive deterioration

Bldg. 714
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920079
Status: Excess
Reason: Extensive deterioration

Bldg. 715
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920080
Status: Excess
Reason: Extensive deterioration

Bldg. 716
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920081
Status: Excess
Reason: Extensive deterioration

Bldg. 717
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920082
Status: Excess
Reason: Extensive deterioration

Bldg. 718
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920083
Status: Excess
Reason: Extensive deterioration

Bldg. 1454
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920084
Status: Excess
Reason: Extensive deterioration

Bldg. 7
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 12
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 24
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area

Bldg. 34
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 108
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 299
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 400
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 436
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 442, 443
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 530
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 532
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 646–651
Naval Weapons Station

Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 758, 759
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 764
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 784
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 786
Naval Weapons Station Yorktown
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 788
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 790
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldg. 814
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration

Bldgs. 1955–1957
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy

Property Number: 77200020028
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldgs. 1960, 1961, 1964
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldgs. 1980, 1981
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020030
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 160
Cheatham Annex
Williamsburg Co: VA 23185–5830
Landholding Agency: Navy
Property Number: 77200020031
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1453
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–5000
Landholding Agency: Navy
Property Number: 77200020063
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 13
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120024
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 14
Naval Weapons Station
Yorktown Co: VA 2369–
Landholding Agency: Navy
Property Number: 77200120025
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 22
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120026
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 23
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120027
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 70
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120028
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 87
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120029
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 88
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120030
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 118
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120031
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 385
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120032
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 396A
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120033
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 492
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120034
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 507
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120035
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 612
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy

Property Number: 77200120036
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1224
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120037
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1225
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120038
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1226
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120039
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1227
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120040
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1228
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120041
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1587
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120042
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1588
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120043
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1589
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120044
Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1590

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120045

Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1591

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120046

Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1612

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120047

Status: Excess

Reasons: Secured Area, Extensive deterioration

Structure 1743

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120048

Status: Excess

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 103B

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120049

Status: Excess

Reasons: Secured Area, Extensive deterioration

Bldg. B109

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120050

Status: Unutilized

Reason: Extensive deterioration

Bldg. B112

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120051

Status: Unutilized

Reason: Extensive deterioration

Bldg. 123

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120052

Status: Unutilized

Reason: Extensive deterioration

Bldg. B132

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120053

Status: Unutilized

Reason: Extensive deterioration

Bldg. B157

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120054

Status: Unutilized

Reason: Extensive deterioration

Bldg. 170A

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120055

Status: Unutilized

Reason: Extensive deterioration

Bldg. B239

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120056

Status: Unutilized

Reason: Extensive deterioration

Bldg. B362

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120057

Status: Unutilized

Reason: Extensive deterioration

Bldg. B396

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120058

Status: Unutilized

Reason: Extensive deterioration

Bldg. B402

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120059

Status: Unutilized

Reason: Extensive deterioration

Bldg. B425

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120060

Status: Unutilized

Reason: Extensive deterioration

Bldg. B428

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120061

Status: Unutilized

Reason: Extensive deterioration

Bldg. B451

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120062

Status: Unutilized

Reason: Extensive deterioration

Bldg. B465

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120063

Status: Unutilized

Reason: Extensive deterioration

Bldg. B1100

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy

Property Number: 77200120064

Status: Unutilized

Reason: Extensive deterioration

Bldg. B1124

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120065

Status: Unutilized

Reason: Extensive deterioration

Bldg. B9411

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120066

Status: Unutilized

Reason: Extensive deterioration

Bldg. B9429

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120067

Status: Unutilized

Reason: Extensive deterioration

Tracks

Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120068

Status: Unutilized

Reason: Extensive deterioration

Bldg. B107

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–5100
Landholding Agency: Navy
Property Number: 77200130045

Status: Unutilized

Reason: Extensive deterioration

Bldg. B153

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130046

Status: Unutilized

Reason: Extensive deterioration

Bldg. B166

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130047

Status: Unutilized

Reason: Extensive deterioration

Bldg. B167

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130048

Status: Unutilized

Reason: Extensive deterioration

Bldg. B185T

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130049

Status: Unutilized

Reason: Extensive deterioration

Bldg. B196

Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130050

Status: Unutilized

Reason: Extensive deterioration

Bldg. B244

Reason: Extensive deterioration
Bldg. B9446
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130125
Status: Unutilized
Reason: Extensive deterioration
Bldg. B9461
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130126
Status: Unutilized
Reason: Extensive deterioration
Bldg. B9462
Naval Surface Warfare Center
Dahlgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200130127
Status: Unutilized
Reason: Extensive deterioration
58 Housing Units
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200210040
Status: Unutilized
Reason: Extensive deterioration
18 Housing Units
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200210041
Status: Unutilized
Reason: Extensive deterioration
Bldgs. CAD18, CAD19
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210047
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD20, CAD21
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210048
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD22, CAD23
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210049
Status: Excess
Reason: Extensive deterioration
Bldg. CAD24
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210050
Status: Excess
Reason: Extensive deterioration
Bldg. CAD98
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210051
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD136, CAD162
Naval Weapons Station
Yorktown Co: VA 23691–

Landholding Agency: Navy
Property Number: 77200210052
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD215, CAD219
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210053
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD330–CAD334
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210054
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD335–CAD339
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210055
Status: Excess
Reason: Extensive deterioration
Bldgs. CAD350–CAD353
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210056
Status: Excess
Reason: Extensive deterioration
Bldg. CAD392
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210057
Status: Excess
Reason: Extensive deterioration
Bldg. 414
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210058
Status: Excess
Reason: Extensive deterioration
Bldg. 418
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210059
Status: Excess
Reason: Extensive deterioration
Bldg. 420
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210060
Status: Excess
Reason: Extensive deterioration
Bldg. 468
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200210061
Status: Excess
Reason: Extensive deterioration
8 Bldgs.
Marine Corps Base
#3220–3227
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200210062
Status: Excess

Reason: Extensive deterioration
6 Bldgs.
Marine Corps Base
2600A, 2604, 2631, 2664, 26123, 261512
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200210063
Status: Excess
Reason: Extensive deterioration
Washington
Bldg. 6661
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–6499
Landholding Agency: Navy
Property Number: 77199730039
Status: Unutilized
Reason: Secured Area
Bldg. 604
Manchester Fuel Department
Port Orchard WA 98366–
Landholding Agency: Navy
Property Number: 77199810170
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 288
Fleet Industrial Supply Center
Bremerton WA 98314–5100
Landholding Agency: Navy
Property Number: 77199810171
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 47
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199820056
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 48
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199820057
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Coal Handling Facilities
Puget Sound Naval Shipyard
#908, 919, 926–929
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77199820142
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
Bldg. 193
Puget Sound Naval Shipyard
Bremerton WA 98310–
Landholding Agency: Navy
Property Number: 77199820143
Status: Unutilized
Reason: contamination
Bldg. 202
Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830019
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
Bldg. 2649

Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830020
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Extensive deterioration
Bldgs. 35, 36
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199830076
Status: Unutilized
Reason: Extensive deterioration
Bldg. 918
Puget Sound Naval Shipyard
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77199840020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 894
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77199920085
Status: Underutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 73
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–
Landholding Agency: Navy
Property Number: 77199920152
Status: Underutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 210A
Naval Station Bremerton
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77199930021
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 511
Naval Station Bremerton
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77199930022
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 527
Naval Station Bremerton
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77199930023
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 97
Naval Air Station
Whidbey Island
Oak Harbor Co: WA 98278–
Landholding Agency: Navy
Property Number: 77199930040
Status: Unutilized
Reason: Extensive deterioration
Bldg. 331
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–

Landholding Agency: Navy
Property Number: 77199930041
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 786
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–
Landholding Agency: Navy
Property Number: 77199930042
Status: Unutilized
Reasons: Secured Area, Extensive
deterioration
Bldg. 15
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930071
Status: Unutilized
Reason: Extensive deterioration
Bldg. 119
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930072
Status: Unutilized
Reason: Extensive deterioration
Bldg. 853
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930073
Status: Unutilized
Reason: Extensive deterioration
Bldg. 854
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930074
Status: Unutilized
Reason: Extensive deterioration
Bldg. 166
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930101
Status: Excess
Reason: Secured Area
Bldg. 287
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930102
Status: Excess
Reason: Secured Area
Bldg. 418
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930103
Status: Excess
Reason: Secured Area
Bldg. 858
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930104
Status: Excess
Reason: Secured Area
Bldg. 17
Naval Radio Station
Jim Creek
Arlington Co: WA 98223–8599
Landholding Agency: Navy

Property Number: 77200010073
Status: Excess
Reasons: Secured Area, Extensive
deterioration
Bldg. 47
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77200010074
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Whitney Point Complex
Brinnon Co: Jefferson WA 98320–9899
Landholding Agency: Navy
Property Number: 77200010102
Status: Excess
Reason: Extensive deterioration
Bldg. 398
Naval Station
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77200020038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 976
Naval Station
Bremerton Co: WA 98314–5020
Landholding Agency: Navy
Property Number: 77200020039
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
8 Bldgs.
Naval Station 902, 903, 905, 907, 909–911,
915
Bremerton Co: WA 98314–5020
Landholding Agency: Navy
Property Number: 77200020040
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
Bldg. 109
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 157
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 161
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area,
Extensive deterioration
Bldg. 170
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723

Landholding Agency: Navy
 Property Number: 77200030023
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 262
 Naval Weapons Station
 Port Hadlock Co: Jefferson WA 98339-9723
 Landholding Agency: Navy
 Property Number: 77200030024
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 482
 Puget Sound Naval Shipyard
 Bremerton Co: WA 98314-5000
 Landholding Agency: Navy
 Property Number: 77200040019
 Status: Excess
 Reason: Secured Area
 Bldg. 529
 Puget Sound Naval Shipyard
 Bremerton Co: WA 98314-5000
 Landholding Agency: Navy
 Property Number: 77200040020
 Status: Excess
 Reason: Secured Area
 Bldg. 133
 Naval Undersea Warfare Station
 Keyport Co: Kitsap WA 98345-7610
 Landholding Agency: Navy
 Property Number: 77200120133
 Status: Unutilized
 Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
 Bldg. 2511
 NAS Whidbey Island
 Oak Harbor Co: Island WA 98278-3500
 Landholding Agency: Navy
 Property Number: 77200120157
 Status: Excess
 Reason: Secured Area
Land (by State)
 California
 Space Surv. Field Station
 Portion/Off Heritage Road
 San Diego CA 90012-1408
 Landholding Agency: Navy
 Property Number: 77199820049
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 Land
 Naval Construction Battalion Center
 Port Hueneme Co: Ventura CA 93043-4301
 Landholding Agency: Navy
 Property Number: 77199940001
 Status: Underutilized
 Reason: Secured Area
 PCL-4 (11.60 acres)
 Construction Battalion Center
 Port Hueneme Co: Ventura CA 93043-4301
 Landholding Agency: Navy
 Property Number: 77200020095
 Status: Underutilized
 Reason: Secured Area
 Parcel 8
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy

Property Number: 77200110040
 Status: Underutilized
 Reason: Secured Area
 Parcel 10
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110041
 Status: Underutilized
 Reason: Secured Area
 Parcel 12
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110043
 Status: Underutilized
 Reason: Secured Area
 Parcel 13
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110044
 Status: Underutilized
 Reason: Secured Area
 Parcel 14
 Naval Base
 Port Hueneme Co: Ventura CA 93043-4300
 Landholding Agency: Navy
 Property Number: 77200110045
 Status: Underutilized
 Reason: Secured Area
 Connecticut
 FAA Direction Finder 11 Quarry Rd.
 Killingly Co: CT 06241-
 Landholding Agency: GSA
 Property Number: 54200110008
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-U-CT-544
 District Of Columbia
 1600 sq. ft./T-88
 Naval Research Lab
 Washington Co: DC 20375-5320
 Landholding Agency: Navy
 Property Number: 77200110118
 Status: Unutilized
 Reason: Within 2000 ft. of flammable or explosive material
 Florida
 (P) Ponce de Leon Inlet
 2999 N. Peninsula Ave.
 New Smyrna Beach Co: Volusia FL 32169-
 Landholding Agency: GSA
 Property Number: 54199940015
 Status: Excess
 Reason: Floodway
 GSA Number: 4-U-FL-1170
 Illinois
 7 Parcels
 Illinois Waterway, Cal-Sag Channel
 Chicago Co: Cook IL 60633-
 Landholding Agency: GSA
 Property Number: 54200140006
 Status: Excess
 Reason: Within 2000 ft. of flammable or explosive material
 GSA Number: 1-D-IL-654-A
 Kentucky
 9 Tracts
 Daniel Boone National Forest
 Co: Owsley KY 37902-

Landholding Agency: GSA
 Property Number: 54199620012
 Status: Excess
 Reason: Floodway
 GSA Number: 4-G-KY-607
 Maine
 Parcel 2
 Naval Air Station
 Canam Drive
 Topsham Co: Cumberland ME 04086-
 Landholding Agency: Navy
 Property Number: 77200130026
 Status: Unutilized
 Reason: Secured Area
 Parcel 3
 Naval Air Station
 Canam Drive
 Topsham Co: Cumberland ME 04086-
 Landholding Agency: Navy
 Property Number: 77200130027
 Status: Unutilized
 Reason: Secured Area
 Parcel 5
 Naval Air Station
 Canam Drive
 Topsham Co: Cumberland ME 04086-
 Landholding Agency: Navy
 Property Number: 77200130028
 Status: Unutilized
 Reason: Secured Area
 Maryland
 6 Acres
 Naval Air Station
 Patuxent River Co: MD 20670-
 Landholding Agency: Navy
 Property Number: 77199940023
 Status: Unutilized
 Reason: Secured Area
 Land-5000 sq. ft.
 Naval Air Station
 Patuxent River Co: MD 20670-1603
 Landholding Agency: Navy
 Property Number: 77200010023
 Status: Unutilized
 Reason: Secured Area
 Michigan
 Port/EPA Large Lakes Rsch Lab
 Grosse Ile Twp Co: Wayne MI
 Landholding Agency: GSA
 Property Number: 54199720022
 Status: Excess
 Reason: Within airport runway clear zone
 GSA Number : 1-Z-MI-554-A
 North Carolina
 0.85 parcel of land
 Marine Corps Air Station, Cherry Point
 Havelock Co: Craven NC 28533-
 Landholding Agency: Navy
 Property Number: 77199740074
 Status: Unutilized
 Reason: Secured Area
 Parcel of land
 144 sq. ft.
 Marine Corps Base
 Camp Lejeune Co: Onslow NC 28542-
 Landholding Agency: Navy
 Property Number: 77200120126
 Status: Underutilized
 Reason: Secured Area
 Ohio
 Lewis Research Center
 Cedar Point Road

Cleveland Co: Cuyahoga OH 44135–
Landholding Agency: GSA
Property Number: 54199610007
Status: Excess
Reasons: Within 2000 ft. of flammable or
explosive material
Within airport runway clear zone
GSA Number : 2–Z–OH–598–I
Puerto Rico
330 acres
Naval Radio Transmitter Facility
Aguada Co: PR 00602–
Landholding Agency: Navy
Property Number: 77200130013
Status: Underutilized
Reasons: Floodway, Secured Area
242 acres
Naval Radio Receiver Facility
Salinas Co: PR 00751–
Landholding Agency: Navy
Property Number: 77200130014
Status: Underutilized
Reasons: Floodway, Secured Area
408 acres
Naval Radio Transmitter Facility
Isabela Co: PR 00662–
Landholding Agency: Navy
Property Number: 77200130015
Status: Underutilized
Reason: Secured Area
Washington
Hanford Training Site
Horn Rapids Rd.
Benton Co: WA
Landholding Agency: GSA
Property Number: 54200210012
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material
GSA Number : 9–B–WA1198A
Land-Port Hadlock Detachment
Naval Ordnance Center Pacific Division
Port Hadlock Co: Jefferson WA 98339–
Landholding Agency: Navy
Property Number: 77199640019
Status: Underutilized
Reasons: Within 2000 ft. of flammable or
explosive material, Secured Area
[FR Doc. 02–4098 Filed 2–21–02; 8:45 am]
BILLING CODE 4210–29–P

INTER-AMERICAN FOUNDATION

Inter-American Foundation Board Meeting; Sunshine Act

TIME AND DATE: March 1, 2002, 9:00–3:30
p.m.

PLACE: Inter-American Foundation, 901
N. Stuart Street, Arlington, VA 22201.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the
April 23, 2001, Meeting of the Board of
Directors
- President's Report
- Congressional Appropriations
Update
- Advisory Council
- Special Investment Initiative

CONTACT PERSON FOR MORE INFORMATION:
Carolyn Karr, General Counsel, (703)
306–4350.

Dated: January 20, 2002.

Carolyn Karr,
General Counsel.

[FR Doc. 02–4418 Filed 2–20–02; 1:49 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–1430–ET; AA–49284]

Realty Action; Termination of Classification and Opening Order: Alaska

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of Realty Action.

SUMMARY: This notice terminates a
Small Tract Classification and opens
certain lands near Port Moller, Alaska,
that were classified for small tract lease
under the Small Tract Act of June 1,
1938 (52 Stat. 609) is amended. This
action would allow the land to be
conveyed to the State of Alaska if such
land is otherwise available.

EFFECTIVE DATE: February 22, 2002.

FOR FURTHER INFORMATION CONTACT:

Kathy A. Stubbs, Anchorage Field
Office, 6881 Abbott Loop Road,
Anchorage, Alaska 99507; telephone
number 907–267–1284.

SUPPLEMENTARY INFORMATION:

Classification Order No. 386–NC dated
June 1, 1961, segregated the lands from
all forms of appropriation under the
public land laws, including location
under the mining laws, except as to
application under the mineral leasing
laws and the Small Tract Act. The Small
Tract Act was repealed by section 702
of the Federal Land Policy and
Management Act of October 21, 1976
(43 U.S.C. 1701). Accordingly the
classification is not longer applicable.

1. Pursuant to the regulations
contained 43 CFR 2091.7–1(b)(2), at 9
a.m. on February 22, 2002.
Classification Order No. 386–NC dated
June 1, 1961, is hereby terminated
insofar as it affects the following
described land:

Seward Meridian, Alaska

A–049284

T.48S., R. 72 W., (surveyed) Tract A.

The area described contains 5 acres in Port
Moller, Alaska.

2. The State of Alaska application for
selection made under section 6(b) of the
Alaska Statehood Act of July 7, 1958, 48
U.S.C. note prec. 21 (1995), and under
section 906(e) of the Alaska National

Interest Lands Conservation Act, 43
U.S.C. 1635(e) (1994), becomes effective
without further action by the State upon
publication of this notice in the **Federal
Register**, if such land is otherwise
available. Land not conveyed to the
State will be subject to the terms and
conditions of Public Land Order No.
5186, as amended, and any other
withdrawal or segregation of record.

June A. Bailey,

Acting Field Manager.

[FR Doc. 02–4229 Filed 2–21–02; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1430–EU]

Notice of Realty Action

AGENCY: Bureau of Land Management,
Interior.

ACTION: Direct sale of public lands in
Boulder County, Colorado.

SUMMARY: The following described lands
have been examined and found suitable
for disposal by direct sale under section
203 of the Federal Land Policy and
Management Act of 1976 (43 U.S.C.
1713) at no less than the appraised fair
market value. The land will not be
offered for sale until at least 60 days
after the date of this notice.

COC–64710

6th Principal Meridian, Colorado

T. 1 N., R. 73 W., section 12: Lot 54
containing 1.95 acres, more or less.

COC–63204

6th Principal Meridian, Colorado

T. 1 N., R. 72 W., section 6: Lots 128, 131,
132, 133, 134 containing 1.21 acres, more
or less.

The land has been classified for
disposal pursuant to section 7 of the
Taylor Grazing Act. The lands described
in this Notice were identified for
disposal in a land use plan which was
in effect on July 25, 2000, and proceeds
from these sales will be deposited in the
Federal Land Disposal Account
authorized under section 206 of the
Federal Land Transaction Facilitation
Act, Pub. L. 106–248. The land
described is segregated by a previous
segregation, COC–63471, dated
December 21, 1999. The land is
segregated from location, entry or
patenting under the general mining laws
and from appropriation under the
public land laws, except as to land
exchange, Recreation and Public

Purposes lease and patent, or direct sale under section 203 of the Federal Land Policy and Management Act of October 21, 1976 to resolve inadvertent trespass. Native American consultation has been completed on lands managed by the Bureau of Land Management in Boulder County.

The land will be offered as follows: COC-64710 to County of Boulder and COC-63204 to Lenore Seiler. These lands will be offered to resolve historic unauthorized residential use. The patents, when issued, will contain a reservation of all minerals to the United States and will be subject to any existing rights of record. Detailed information concerning these reservations as well as specific conditions of the sale will be available upon request.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, Interested parties may submit comments to Roy Masinton, Field Office Manager, at the address listed below. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

ADDRESSES: Bureau of Land Management, Royal Gorge Field Office, 3170 East Main St., Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Jan Fackrell, Realty Specialist (719) 269-8525.

Dated: January 3, 2002.

Roy L. Masinton,
Field Office Manager.

[FR Doc. 02-4314 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-110-1430-ER; COC-61966, COC-64359, COC-61963, COC-61964, COC-61965, COC-65274, COC-61962-1 thru 6]

Notice of Realty Action: Noncompetitive/Modified Competitive Sale of Public Lands; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following lands have been found suitable for direct or modified competitive sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated fair market value (FMV) indicated. The land will not be offered for sale until at least April 23, 2002. All

legal descriptions are Sixth Principal Meridian, Colorado.

Parcel 1 (COC61966); contains 10.47 acres m/l; FMV of \$40,000; direct sale to Chris Halandras

T. 1 N., R. 95 W.,
Sec. 29, lot 15.

Parcel 2 (COC64359); contains 2.52 acres m/l; FMV of \$10,000; direct sale to Victor Parker

T. 1 N., R. 95 W.,
Sec. 32, lot 46

Parcel 3 (COC61963); contains 3.35 acres m/l; FMV of \$2,500; direct sale to Walter Powell

T. 2 N., R. 99 W.,
Sec. 6, lot 22.

Parcel 4 (COC61964); contains 7.85 acres m/l; FMV of \$11,775; direct sale to Gary Staley

T. 2 N., R. 100 W.,
Sec. 8, lot 13.

Parcel 5 (COC61965); contains 7.5 acres m/l; FMV of \$4,500; direct sale to Mark Slawson

T. 3 S., R. 101 W.,
Sec. 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

Parcel 6 (COC65274); contains 80 acres m/l; FMV of \$160,000; direct sale to James Goff

T. 3 S., R. 93 W.,
Sec. 29, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 3 S., R. 94 W.,
Sec. 14, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Parcel 7 (COC61962-2); contains 2.49 acres m/l; FMV of \$25,750; direct sale to Taylor Temples

T. 1 N., R. 91 W.,
Sec. 36, lot 38

Parcel 8 (COC61962-1); contains 4.24 acres m/l; FMV of \$63,600; modified competitive sale, offered to adjacent landowners

T. 1 N., R. 91 W.,
Sec. 25, lot 15.

Parcel 9 (COC 61962-4); contains 5.02 acres m/l; FMV of \$68,150; modified competitive sale offered to adjacent landowners

T. 1 N., R. 91 W.,
Sec. 36, lots 59 and 60.

Parcel 10 (COC61962-3); contains 5.01 acres m/l; FMV of \$68,000; modified competitive sale offered to adjacent landowners

T. 1 N., R. 91 W.,
Sec. 36, lots 19 and 39.

Parcel 11 (COC61962-5,6); contains 9.75 acres m/l; FMV of \$132,350; direct sale to Howard Cooper

T. 1 N., R. 91 W.,
Sec. 36, lots 27, and 52.

In accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315 f, and Executive Order 6910, the described lands are hereby classified for disposal by sale. The described lands are classified for disposal, and this proposed sale is in conformance with the White River Resource Management Plan dated July 1, 1997.

These lands were identified for disposal in an approved land use plan in effect on July 25, 2000. The proceeds from sale will be deposited in the Federal Land Disposal Account established with the Federal Lands Transaction Facilitation Act, Public Law 106-248.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

Parcels 8, 9, and 10, will be offered for sale at auction beginning at 10 AM MST on April 8, 2002, at 73544 highway 64, Meeker, Colorado. Only owners of adjacent parcels of land will be qualified to bid. The purpose of the sale is to implement land tenure adjustment decisions made in the White River Resource Management Plan of 1997.

Sealed bids for parcels 8, 9, and 10, must be submitted to the BLM White River Field Office at 73544 Highway 64, Meeker, Colorado 81641, not later than 4:00 PM MST, April 8, 2002. Bid envelopes must be marked on the left front corner with the file and parcel numbers, and the sale date. Bids must be for not less than the appraised FMV as stated in this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of Interior, BLM, for not less than 10 percent of the bid amount. The remainder of the full bid price must be paid within 180 calendar days of the date of sale. Failure to pay the full price within 180 days will disqualify the apparent high bidder and cause the bid deposit to be forfeited to the BLM.

The patents, when issued, will contain certain reservations to the United States and will be subject to existing easements as follows:

1. In all patents, all mineral deposits are reserved to the United States together with the right to explore for and extract the same under applicable regulations;

2. In all patents, a right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. In the patent for parcel 3, the United States will reserve an exclusive right of access across the existing Boise Creek Road where it crosses the subject parcel.

"Patents for the lands in the following parcels will be subject to existing rights-of-way":

Parcel #	Serial #	Width	Purpose	Current R/W holder
1 & 2	COD-057420	Variable	State Hwy 64	Colo. Dept' Transportation.
	COC-25262	16 ft	Telephone Line	Qwest Corporation.
	COC-64007	8 ft	Fiber Optics Cable	Uintah Basin Telecom Assoc.
3	COC-39399	40 ft	Elec Power Line	Moon Lake Electric Assoc.
4	COC-48525	20 ft	Elec Power Line	Moon Lake Electric Assoc.
	COC-49119	30 ft	Access Road	Gary Staley.
		10 ft	Water Pipeline	Gary Staley.
7	COC-59836	10 ft	Water Pipelines	Taylor & Norma Temples.
7 & 8	COC-39375	20 ft	Elec Power Line	White River Electric Assoc.
9 & 10	COC-52068	10 ft	Telephone Line	Qwest Corporation.
11	COC-0120824	25 ft	Elec Power Line	White River Electric Assoc.
	COC-62356	20 ft	Access Road	Howard Cooper.

"Patents for the lands in Parcels 7, 9, 10, and 11 will be issued subject to the provisions, reservations, conditions, and limitations of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075) as amended by the Act of August 26, 1935 (49 Stat. 846; 16 U.S.C. Sec. 818)".

Detailed information concerning the sale, including the reservations, procedures for and specific conditions of the sale, and planning and environmental documents, are available for review at the White River Field Office, Bureau of Land Management, 73544 Highway 64, Meeker, Colorado 81641, during regular office hours of 7:45 a.m. to 4:30 p.m.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, White River Field Office, at the above address. Adverse comments will be reviewed by the Colorado State Director, who may sustain, vacate, or modify this realty action. In the absence of timely adverse comments, this proposal shall become the final determination of the Department of the Interior. The BLM may accept or reject any or all offers, or withdraw any land or interest in land from sale.

Dated: January 29, 2002.

Kent E. Walter,
Field Manager.

[FR Doc. 02-4315 Filed 2-21-02; 8:45 am]

BILLING CODE 1430-JB-P

DEPARTMENT OF THE INTERIOR

National Park Service

Chalmette Battlefield Task Force

AGENCY: National Park Service, Interior.

ACTION: Establishment.

SUMMARY: The Secretary of the Interior is establishing the Chalmette Battlefield Task Force to review the condition of federally-owned buildings and artifacts within the boundary of the Chalmette

National Cemetery and Chalmette Battlefield units of Jean Lafitte National Historical Park and Preserve, and make recommendations to the National Park Service on improvements.

FOR FURTHER INFORMATION CONTACT:

Geraldine Smith, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, LA 70130; telephone 504-589-3882; fax 504-589-3864.

SUPPLEMENTARY INFORMATION: In accordance with the intent of Congress as expressed in House Report 106-222, the Secretary of the Interior is administratively establishing the Chalmette Battlefield Task Force to advise the National Park Service on the condition of and make recommendations on suggested improvement to the Chalmette Battlefield. The Task Force will be comprised of 13 members appointed by the Secretary of the Interior, as follows:

- (a) Superintendent, Jean Lafitte National Historical Park and Preserve;
- (b) One representative of the St. Bernard Parish government;
- (c) Two representatives of the St. Bernard Parish Council;
- (d) One representative of the St. Bernard Port and Harbor Terminal District;
- (e) One representative of the Lake Borgne Basin Levee District;
- (f) One representative of the Louisiana Society of United States Daughters of 1812;
- (g) One representative of the Fazendeville Descendants, as nominated by The Battle Ground Baptist Church;
- (h) One representative of the local tourism industry, as nominated by the New Orleans Metropolitan Convention and Visitors Bureau, Inc.;
- (i) One representative from nominations by the New Orleans Regional Chamber of Commerce;
- (j) One representative of the St. Bernard Historical Society;
- (k) One representative from nominations by the Louisiana State Historic Preservation Officer; and

(l) One representative from nominations by the Jackson Barracks Unit of the Louisiana Army National Guard.

Copies of the Task Force's charter will be filed with the appropriate committees of the Congress and with the Library of Congress in accordance with section 9(c) of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix.

Records of Meetings: In accordance with requirements of the Federal Advisory Committee Act, the NPS will keep a record of all Task Force meetings.

Administrative Support: To the extent authorized by law, the NPS will fund the costs of the Task Force and provide administrative support and technical assistance for the activities of the Task Force.

Certification: I hereby certify that the administrative establishment of the Chalmette Battlefield Task Force is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Act of October 2, 1968, as amended, 16 U.S.C. 1241 et seq.

Dated: October 24, 2001.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02-4324 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Issue a Temporary Concession Contract for Raft Float Trips and Limited Visitor Services at Willow Beach Site Within Lake Mead National Recreation Area

SUMMARY: Pursuant to the National Park Service Concessions Management Improvement Act of 1998, notice is hereby given that the National Park Service intends to issue a temporary concession contract authorizing

continued operation of raft float trips from below Hoover Dam to the public, and provide limited visitor service at Willow Beach Site within Lake Mead National Recreation Area. The temporary concession contract will be for a team of not more than three years. This short-term concession contract is necessary to avoid interruption of visitor services while the National Park Service finalizes the development of the Prospectus to be issued for a long-term concession contract. This short-term contract will be for a three-year period ending December 31, 2004. This notice is pursuant to 36 CFR part 51, section 51.24(a).

SUPPLEMENTARY INFORMATION: The concession authorization at Lake Mead National Recreation Area for the raft float trips expired on November 30, 2001. The operation is seasonal and operates primarily from February through November and provides visitors with an opportunity to take raft float trips from below Hoover Dam to a designated takeout point down lake from the dam on Lake Mohave. In addition, to the operation of the float trips limited visitor services will be conducted at Willow Beach Site. This service will be for those visitors who are disembarking from the float trips as well as those visitors who are recreating on the upper portion of Lake Mohave within Lake Mead National Recreation Area. Lake Mead National Recreation Area is in a process of reviewing its visitor services plan and developing a Prospectus for the solicitation of a long-term concession contract that meets the requirements of the park's General Management Plan regarding commercial services offered to the public. The short-term concession contract will allow for this action to take place without a long-term delay in service to the public.

Information about this notice can be sought from:

National Park Service, Chief, Concession Program Management Office, Pacific West Region, Attn: Mr. Tony Sisto, 1111 Jackson Street, Suite 700, Oakland, California 94607, or call (510) 817-1366.

Dated: January 30, 2002.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.
[FR Doc. 02-4322 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Impact Statement on Vessel Quotas and Operating Requirements for Glacier Bay National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The National Park Service (NPS) is preparing an environmental impact statement (EIS) on vessel quotas and operating requirements for Glacier Bay National Park and Preserve, under the provisions of the National Environmental Policy Act (NEPA). The purpose of the EIS is to evaluate a range of alternatives for establishing vessel quotas and operating requirements in Glacier Bay proper, Dundas Bay and Taylor Bay.

A reasonable range of alternatives will be developed for consideration in the EIS that are responsive to significant issues raised through public involvement and comment. The proposed action would continue vessel quotas and operating requirements in accordance with the 1996 regulations. Those regulations, 36 CFR 13.65(b), established a daily limit of two cruise ships, three tour boats, six charter boats and 25 private boats in Glacier Bay proper. Seasonal entries (June 1 through August 31) were established as follows: cruise ships (139), tour boats (276), charter boats (312), and private boats (468). The regulations further provide that the number of cruise ships could be increased to 184 if scientific and other information indicated such an increase would assure protection of the values and purposes of the park. Any increase under the regulations is subject to the maximum daily limit of two cruise ships per day.

Alternatives will consider raising motorized vessel entry quotas above those established by the 1996 regulations and reducing motorized vessel entry quotas. Companion operating requirements will be identified for each alternative. The range of alternatives will consider the following preliminary issues:

- The impact of motorized vessels on park resources and values, including federally endangered humpback whales and threatened Steller sea lions.
- The level and type of motorized vessel use, in all seasons, consistent with the purposes and values of Glacier Bay National Park.
- The use of vessel quotas and operating requirements consistent with

providing a range of visitor experiences including opportunities for solitude.

Scoping: The NPS requests input from federal and state agencies, local government, private organizations, recreational users, and the public. Written scoping comments are being solicited. Further information on this planning process will be available through public scoping meetings, press releases, and newsletters. Scoping meetings will be held in Anchorage, Juneau, Gustavus, Hoonah, Elfin Cove, and Pelican, Alaska and in Seattle, Washington. Specific dates, times, and locations of scoping meetings will be announced.

If individuals submitting comments request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. The NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

DATES: Comments concerning the scope of this project should be received within 60 days of publication of this notice. The draft EIS is projected to be available in early 2003. Comments may be mailed to the address provided below.

FOR FURTHER INFORMATION CONTACT: Joan B. Darnell, Environmental Resources Team Manager, National Park Service, Alaska Support Office, 2525 Gambell Street, Anchorage, Alaska 99503. Telephone (907) 257-2648, Fax (907) 257-2517.

SUPPLEMENTARY INFORMATION: The 3.3 million acre Glacier Bay National Park and Preserve encompasses 940 square miles of marine waters and is home to the endangered humpback whale. Glacier Bay is a major tourist destination where watercraft provides primary access to features of interest. Regulations modifying earlier vessel quotas, operating requirements, special use areas and mitigative measures were finalized in May 1996 (36 CFR 13.65) based on a May 1995 VMP/ Environmental Assessment. The plan was approved by a March 1996 Finding of No Significant Impact, and included a National Marine Fishery Service Biological Opinion on the humpback whale, Steller sea lion and gray whale. NPS has developed a research program based on the conservation

recommendations of the Biological Opinion.

Vessel numbers and operating requirements for cruise ships, tour boats, charter boats, and private boats have been in place for Glacier Bay National Park since 1979. Regulations implementing the 1996 Vessel Management Plan increased vessel entries above 1985 levels for cruise ships (30 percent increase initially; up to 72 percent increase) charter boats (8 percent increase) and private vessels (15 percent increase). Vessel operating requirements were also set for all vessel types, including tour boats.

On February 23, 2001, the 9th Circuit Court of Appeals determined that the portion of the 1996 VMP and the implementing regulations that authorized an increase in vessels into Glacier Bay violated NEPA because an EIS was not prepared. Accordingly, further increases in vessel traffic were prohibited and current traffic levels were returned to their pre-1996 levels. On November 5, 2001, Pub. L. 107-63 (155 Stat. 414) was signed into law. Section 130 of the act requires preparation of an EIS to identify and analyze the possible effects of the 1996 increases in the number of vessel entries issued for Glacier Bay National Park and Preserve. Section 130 further provides that the EIS is to be completed by January 1, 2004.

Dated: February 7, 2002.

Robert L. Arnberger,

Regional Director, Alaska.

[FR Doc. 02-4323 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Memorial Commission; Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission (the Commission) will be held at 9:30 a.m., on Friday, March 1, 2002, at the National Building Museum, Room 312, 5th and F Streets, NW., Washington, DC.

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

In addition to discussing general matters and conducting routine business, the Commission will review the following:

Action Items

(1) Consideration of a recommendation relative to placement, within Area I as established by the Commemorative Works Act of 1986, of the Dwight D. Eisenhower Memorial (Public Law 106-79, October 25, 1999).

(2) Site Selection.

(a) Alternative Site Study for the Tomas G. Masaryk Memorial (Public Law 107-61, November 5, 2001).

(b) Alternative site study for the plaque to be placed at the Lincoln Memorial commemorating the "I Have a Dream" speech of Martin Luther King, Jr. (Public Law 106-365, October 2, 2000).

(3) Design Concept Review. Design concept review of the plaque to be placed at the Vietnam Veterans Memorial honoring post-war casualties of the Vietnam War (Public Law 106-215, June 14, 2000).

(4) Legislative Proposals introduced in the 107th Congress to establish memorials in the District of Columbia and its environs.

The Commission was established by Public Law 99-652, the Commemorative Works Act, to advise the Secretary and the Administrator, General Services Administration, (the Administrator) on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters as it may deem appropriate concerning commemorative works.

The Commission examines each memorial proposal for conformance to the Commemorative Works Act, and makes recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorials in Washington, DC, and its environs.

The members of the Commission are as follows:

Director, National Park Service; Chairman, National Capital Planning Commission; Architect of the Capitol; Chairman, American Battle Monuments Commission; Chairman, Commission of Fine Arts; Mayor of the District of Columbia; Administrator, General Services Administration; Secretary of Defense.

Due to the continued delay of mail delivery to the Main Interior Building and communication difficulties resulting from restricted modem and Internet access for all Department of the Interior agencies, this notice could not be published at least 15 days prior to the meeting dates. The National Park

Service regrets this delay but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of committee members who have adjusted their schedules to accommodate the proposed meeting dates, and the high level of anticipation by all parties who will be affected by the outcome of the committee's actions. Since the proposed meeting dates have received widespread publicity in areas news media and among the parties most affected, the National Park Service believes that the public interest will not be adversely affected by the less-than-15-days advance notice in the **Federal Register**.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Ms. Nancy Young, Executive Secretary to the Commission, at (202) 619-7097.

Dated: February 7, 2002.

Joseph M. Lawler,

Acting Regional Director, National Capital Region.

[FR Doc. 02-4379 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the national park Service for February 9, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW, Suite 400, Washington DC 20002; or by fax 202-343-1836. Written or faxed

comments should be submitted by March 11, 2002.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

Connecticut

Fairfield County

Gores, Landis, House, 192 Cross Ridge Rd., New Canaan, 02000189.

Georgia

Pickens County

Cagle House, GA 108, approx. 1½ mi. W of GA 5/515, Tate, 02000191.

Seminole County

Donalsonville Historic District, Roughly bounded by the Seaboard RR line, W. Thirt St., and Morris and S. Tennille Aves., Donalsonville, 02000190.

Indiana

Adams County

Geneva Downtown Commercial Historic District, 144–455 E. Line St., Geneva, 02000196.

Bartholomew County

Newsom—Marr Farm, 4950 S 150 D, Columbus, 02000195.

Carroll County

Wabash and Erie Canal Culvert #100, Towpath Rd. over Burnett's Creek, Lockport, 02000194.

Floyd County

Division Street School, 1803 Conservative St., New Albany, 02000193.

Franklin County

Stockheughter Covered Bridge, 27046 Enochsburg Rd., Batesville, 02000198.

Madison County

Chesterfield Spiritualist Camp District, 200–300 blks. of Eastern, Parkview, Western Drs., Chesterfield, 02000192.

Owen County

Secrest—Wampler House, 1816 Concord R., Gosport, 02000199.

Pulaski County

Vurpillat's Opera House, Jct. of Market and Main Sts., Winamac, 02000201.

St. Joseph County

Norman Heights Historic District, Roughly 2300–2900 N. Main, 2300–2800 Normandy, & 100–200 blks. E. Ardenes, Palau, Bastogne, Leyte, Saint Lo & Guam, Mishawaka, 02000203.

Tippecanoe County

Alpha Tau Omega Fraternity House, 314 Russell St., West Lafayette, 02000197.
Cairo Skywatch Tower, Cty. Rd. 850 N at Cty. Rd. 100 W, Cairo, 02000202.

Vigo County

Linton Township High School and Community Building, (Indiana's Public

Common and High Schools MPS), 13041 Pimento Circle, Pimento, 02000200.

Kansas

Crawford County

Whitesitt-Shirk Historic District, 116 E. Lindburg and 120 E. Lindburg, Pittsburg, 02000204.

Michigan

Van Buren County

Marshall's Store, 102 E. St. Joseph St., Lawrence, 02000205.

Mississippi

Hinds County

Naval and Marine Corps Reserve Center, 1815 Jefferson St., Jackson, 02000209.

Holmes County

Acona Church, Cemetery, and School, MS 17, Lexington, 02000210.

Issaquena County

Grace Archeological Site, Address Restricted, Grace, 02000206.

Noxubee County

Macon Historic District, Roughly bounded by Adams, Pearl, West, and Wayne Sts., Macon 02000207.

Pike County

Enochs, Phillip Henry, House, 1001 Dogwood Dr. Fernwood, 02000208.

Missouri

Greene County

West Walnut Street Commercial Historic District, (Springfield, Missouri MPS (Additional Documentation)), Roughly 400–300 blks. of W. Walnut St., 300–400 blks. of S. Campbell Ave., Springfield, 0200211.

Wayne County

Fort Benton, 3.5 mi. S of jct. of MO 67 and MO 34, Patterson, 02000212.

Montana

Cascade County

Tower Rock, 8 mi. S of Cascade at I–15 Interchange 247, Cascade, 02000213.

Yellowstone County

Billings West Side School, 415 Broadwater Ave., Billings, 02000214.

New Jersey

Cape May Country

Wiley, Dr. John, House, 2 N. Main St., Cape May Court House, 02000217.

Middlesex County

Livingston Homestead, 81 Harrison Ave., Highland Park, 02000215.

Warren County

Richey, John, House, 6 Schetzer Ln., Franklin, 02000216.

Ohio

Allen County

Lima Stadium, 100 S. Calument Ave. and E. Market St., Lima, 02000219.

Hamilton County

Weston, John Henry, House, 1321 Michigan Ave., Cincinnati, 02000218.

Warren County

Waynesville Main Street Historic District, Main St., Waynesville, 02000220.

Oklahoma

Creek County

Frank, John, House, 1300 Luker Ln., Sapulpa, 02000221.

Pennsylvania

Bucks County

Atkinson Road Bridge, Atkinson Rd. and Pidcock's Creek, Solebury Twp, 02000222.
Buckmanville Historic District, Street Rd. bet. Windy Bush and Buckmanville Rds., Upper Makefield, 02000224.
Ivyland Historic District, Bounded by Jacksonbille Rd., Wilson, Greeley, and Chase Aves., Ivyland, 02000225.

Chester County

Brinton-King Farmstead, 1301 Brinton's Bridge Rd., 162 Baltimore Pike, Pennsbury, 02000230.

Franklin County

Harbaugh's Reformed Church, 14301 and 14269 Harbaugh Church Rd., Washington, 02000228.

Montgomery County

Cairnwood, 3028 Huntington Pike, Bryn Athyn, 02000223.
Curtis Aboretum, 1250 W. Church Rd., Cheltenham, 02000229.

Philadelphia County

Bell Telephone Exchange Building, 8–12 N. Preston St., Philadelphia, 02000227.

Washington County

Ross, Frank L., Farm, PA 519, 0.3 mi. N of US 40, North Bethlehem, 02000226.

Rhode Island

Kent County

Read School, 1670 Flat River Rd., Conventry, 02000231.

Tennessee

Davidson County

Nashville Financial Historic District, Third Ave., North and Union St., Nashville, 02000232.

Fayette County

Oakland Presbyterian Church, 14780 TN S, Oakland, 02000235.

Madison County

Mt. Olivet Cemetery, E. Forest Ave., Jackson, 02000237.

Roane County

Molyneux Chevrolet Company—Rockwood
Fire Department Building, 104 N.
Chamberlain St., Rockwood, 02000234.

Shelby County

Elmwood Cemetery, 824 Dudley St.,
Memphis, 02000233.
Gotten, Nicholas, House, 2969 Court St.,
Bartlett, 02000236.

Washington*Benton County*

Benton City—Kiona Bridge, (Bridges and
Tunnels Built in Washington State, 1951–
1960 MPS), WA 225 over Yakima R,
Benton City, 02000240.
Pioneer Memorial Bridge—Blue Bridge,
(Bridges and Tunnels Built in Washington
State, 1951–1960 MPS), WA 395 over
Columbia R, Pasco, 02000241.

Chelan County

Wenatchee Avenue Southbound Bridge,
(Bridges and Tunnels Built in Washington
State, 1951–1960 MPS), WA 285 at
Wenatchee R, Wenatchee, 02000239.

Grays Harbor County

Chehalis River Bridge, (Bridges and Tunnels
Built in Washington State, 1951–1960
MPS), WA 101 over Chehalis, Aberdeen,
02000243.

Jefferson County

Portage Canal Bridge, (Bridges and Tunnels
Built in Washington State, 1951–1960
MPS), WA 116 over Portage Canal,
Hadlock, 02000244.

King County

Adair, William and Estella, Farm, (Dairy
Farm Properties of Snoqualmie River
Valley, Washington MPS), 27929 NE 100th
St., Carnation, 02000249.
Allen, Horatio and Laura, Farm, (Dairy Farm
Properties of Snoqualmie River Valley,
Washington MPS), 28704 NE Cherry Valley
Rd., Duvall, 02000250.
Hjertoos, Andrew and Bergette, Farm, (Dairy
Farm Properties of Snoqualmie River
Valley, Washington (MPS), 31523 NE 40th,
Carnation, 02000248.

Kitsap County

Port Washington Narrows Bridge, (Bridges
and Tunnels Built in Washington State,
1951–1960 MPS), WA 303 over
Washington Narrows, Bremerton,
02000258.

Klickitat County

Klickitat River Bridge, (Bridges and Tunnels
Built in Washington State, 1951–1960
MPS), WA 142 over Klickitat R., Lyle,
02000242.

Pierce County

Albers Brothers Mill, 1821 Dock St., Tacoma,
02000247.

Snohomish County

Snohomish River Bridge, (Bridges and
Tunnels Built in Washington State, 1951–
1960 MPS), WA 529 over Snohomish R.,
Washington 02000245.

Steamboat Slough Bridge, (Bridge and
Tunnels Built in Washington State, 1951–
1960 MPS), WA 529 over Steamboat
Slough. Marysville, 02000246.

Thurston County

Erickson, Jonas, and Maria Lovisa,
Farmstead, (Agriculture in Thurston
County MPS), 13121 Independence Rd.,
Rochester, 02000251.

Whatcom County

Gorge Creek Bridge, (Bridge and Tunnels
Built in Washington State, 1951–1960
MPS), WA 20 over Gorge Creek,
Newhalem, 02000238.

West Virginia*Kanawha County*

Smith-Giltinan House, 1223 Virginia St., E,
Charleston, 02000253.

Lewis County

Upper Gladys School, Cty Rd, 52–1.9 mi. N
of McCord Run Rd., Crawford, 02000252.

Marion County

Fairmont Senior High School, 1 Loop Park,
Fairmont, 02000254.

Pocahontas County

Beard, Richard. House, Off Cty. Rd. 31 on
Kyle Beard Rd., Hillsboro, 02000255.

Wisconsin*Crawford County*

Crow Hollow Site, Address Restricted,
Petersburg, 02000256.

Wyoming*Park County*

Mammoth Hot Springs Historic District,
North Entrance Rd. and Mammoth-Norris
Rd., Yellowstone National Park, 02000257.

A request for REMOVAL has been made for
the following resource:

Tennessee*Davidson County*

Shute-Turner House, 4112 Brandywine Point
Blvd., Nashville, 97001138.

[FR Doc. 02–4325 Filed 2–21–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR**Bureau of Reclamation**

**Central Arizona Project, Indian
Distribution Division, San Carlos
Apache Indian Reservation, Gila, Pinal,
and Graham Counties, AZ**

AGENCY: Bureau of Reclamation,
Interior.

ACTION: Notice of Intent to Prepare an
Environmental Impact Statement.

SUMMARY: Pursuant to the National
Environmental Policy Act of 1969, as
amended (NEPA), Reclamation proposes

to prepare a draft environmental impact
statement (EIS) regarding delivery of
Central Arizona Project (CAP) water to
the San Carlos Apache Reservation
(Reservation). This draft EIS will
evaluate anticipated environmental
impacts from alternative methods of
delivering CAP water and other water
resources, provided under the San
Carlos Apache Water Rights Settlement
Act of 1992 (Act). Currently, nine
conceptual options are being
investigated. A No-Action alternative
will also be analyzed. Public scoping
meetings will be held to receive
comments from affected and/or
interested agencies and the general
public on the environmental impacts,
concerns, and issues that should be
addressed in the EIS [see **DATES**].

DATES: To ensure consideration in the
preparation of the draft EIS, written
comments must be received by May 3,
2002 [see **ADDRESSES**, below]. The draft
EIS is expected to be available for public
review and comment in April 2003.

Public scoping meetings are schedule
to be held on:

- April 10, 2002, 5–8 p.m. in Bylas,
Arizona.
- April 11, 2002, 5–8 p.m. in San
Carlos, Arizona.

ADDRESSES: Send written comments to
Mr. Bruce Ellis, Chief, Environmental
Resources Management Division,
Bureau of Reclamation, Phoenix, Area
Office (PXAO–1500), PO Box 81169,
Phoenix, AZ 85069–1169; faxogram
602–216–4006.

The hearings will be held at the
following locations:

- Bylas—Stanley Hall, Highway 70,
Bylas, Arizona.
- San Carlos—Burdette Hall, San
Carlos Avenue, San Carlos, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr.
John McGlothlen at the above address,
telephone 602–216–3866.

SUPPLEMENTARY INFORMATION: The
purpose of the project is to deliver CAP
water, and other water resources to the
Reservation provided by the Act, to
sustain and expand the San Carlos
Apache Tribe's (Tribe) agricultural base
and for other Tribal homeland purposes,
in a manner that enhances efficient
development, management, and
delivery of Tribal water resources.

The Reservation encompasses about
2,960 square miles in portions of Gila,
Graham, and Pinal Counties in east-
central Arizona. Approximately 12,000
people live on the Reservation and rely
on its local water resources for
domestic, municipal, agricultural, and

industrial supply. Local water resources include flows of the Gila, Black, and Salt Rivers, other surface waters, and ground-water supplies which are available beneath the Cutter basin, San Carlos and Gila River valleys, and other areas of the Reservation. San Carlos Reservoir is another important local water resource.

In December 1980, the Tribe signed a CAP Indian Water Delivery Contract with the United States. The CAP Indian Water Delivery Contract entitles the Tribe to 12,700 acre-feet per year of CAP Project Water, commits the United States to deliver Project Water to the Tribe, provides for exchange of Project Water to accomplish the contractual obligations, and sets forth the terms for repayment of construction and operation, maintenance, and replacement costs.

In 1992 Congress enacted the Act, which confirms and ratifies an Agreement entered into by the Tribe and neighboring non-Indian communities of the Salt and Gila River valleys regarding water rights claims between and among themselves, and authorizes the actions and appropriations necessary for the United States to fulfill its obligations to the Tribe as provided in the Agreement and the Act.

The total amount of water allocated to the Tribe and available for delivery to the Reservation under the CAP Indian Water Delivery Contract and the Act is 71,445 acre-feet per year. In addition, at least 6,000 acre-feet per year are also available to the Reservation as a result of the Gila River Decree. Portions of the Act not specific to the CAP include 7,300 acre-feet per year from the Black and/or Salt Rivers and water from local Tribal water sources. The total volume of water that will be considered in project planning is 77,445 acre-feet per year, plus any water that may be available from local Tribal sources.

The draft EIS will evaluate reasonable alternative methods of delivering the CAP water and other waters described above to satisfy the project purposes. The development, evaluation, and selection of alternatives will begin with the identification of a broad list of project concepts that will be subjected to a feasibility screening based upon cultural, social, economic, technical, environmental, and legal factors. To date, nine project concepts have been identified for screening. These are as follows:

- Diversion from San Carlos Reservoir and conveyance via a canal to recharge portions of Cutter Basin and irrigate approximately 9,100 acres of Ranch Creek, Seven Mile Wash, San Carlos River, and neighboring areas;

- Diversion from the Black River and conveyance via a tunnel and the existing channel of Rocky Gulch to recharge portions of the San Carlos Basin and irrigate approximately 11,000 acres of Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from the Black River and conveyance via a tunnel and the existing channel of Rocky Gulch for storage behind Elgo Dam and to irrigate approximately 9,500 acres of Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from San Carlos Reservoir and conveyance via canals to irrigate approximately 9,100 acres adjacent to the Gila River and in portions of the Ranch Creek, Gibson Wash, Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from the Black River and conveyance via a tunnel to a reservoir constructed on Rocky Gulch, then conveyance via the existing channel of Rocky Gulch for storage behind Elgo Dam and to irrigate approximately 12,800 acres in portions of the Ranch Creek, Gibson Wash, Seven Mile Wash, Sycamore Creek, Natural Corral Creek, San Carlos River, and neighboring areas;

- Diversion from the Gila River at a point east of Bylas, and conveyance via gravity to irrigate approximately 1,000 acres adjacent to the Gila River;

- Construction of a diversion dam on the Gila River at a point east of Bylas, and conveyance to irrigate approximately 8,200 acres adjacent to the Gila River and in portions of the San Carlos River watershed;

- Diversion from the Black River at a point near the confluence with Freezeout Creek, with conveyance via a canal to a reservoir constructed on Turkey Creek, to irrigate approximately 5,300 acres in the Turkey and Willow Creek areas;

- Diversion from the Black River at a point near the confluence with Freezeout Creek, with conveyance via a tunnel and canal to a reservoir constructed on Bonita Creek, to irrigate approximately 10,200 acres in the Ash and Bonita Creeks and neighboring areas.

Public Meetings and Written Comments

The public will be invited to participate in the scoping process, and in review of the draft EIS. Additional descriptive information will be made available to interested parties prior to the public scoping meetings. Anyone interested in obtaining additional descriptive information prior to the

public scoping meetings should contact John McGlothlen [see **FOR FURTHER INFORMATION CONTACT**]. At each public scoping meeting, the Tribal CAP Project team will make a short presentation. Oral and written comments from the audience will then be accepted. A court reporter will make a written record of all oral comments made.

Written comments received by Reclamation become part of the public record associated with this action. Accordingly, Reclamation makes these comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Note: Hearing impaired, visually impaired, and/or mobility impaired persons planning to attend this meeting may arrange for necessary accommodations by calling Ms. Janice Kjesbo at Reclamation's Phoenix Area Office, telephone 602-216-3864 or faxogram 602-216-4006, no later than two weeks prior to the meeting date.

Dated: February 14, 2002.

Robert W. Johnson,
Regional Director.

[FR Doc. 02-4319 Filed 2-21-02; 8:45 am]

BILLING CODE 4310-MN-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-02-005]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: February 27, 2002 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: None.
2. Minutes

3. Ratification List

4. Inv. No. 731-TA-988 (Preliminary) (Pneumatic Directional Control Valves from Japan)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before February 28, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before March 7, 2002.)

5. Outstanding action jackets: None. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: February 20, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02-4457 Filed 2-20-02; 2:58 pm]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Extension of a Currently Approved Collection COPS Making Officer Redeployment Effective (MORE) Grant Program.

The Department of Justice (DOJ), Office of Community Oriented Policing Services has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for "sixty days" until April 23, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305-7780, Office of Community Oriented Policing Services, U.S. Department of Justice, 1100 Vermont Avenue NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your

comments should address one or more of the following four points:

(1) Evaluate whether the 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) *The title of the form/collection:* COPS Making Officer Redeployment Effective (MORE) Grant Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form: none. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal government. Other: None. The information collection will be used by the COPS Office to determine whether law enforcement agencies are eligible for one year grants specifically targeted to provide funding for technology and equipment. The grants are meant to enhance law enforcement infrastructures and community policing efforts in these communities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,300 respondents will complete the application. The amount of estimated time required for the average respondent to respond is 27 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total burden hours to conduct this survey is 62,100 hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice

Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: February 15, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02-4221 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-AT-M

DEPARTMENT OF JUSTICE

Office of Community Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Reinstatement, with change, of a previously approved collection for which approval has expired; Department Annual Report.

The Department of Justice (DOJ), Office of Community Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for "sixty days" until April 23, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gretchen DePasquale, (202) 305-7780, Office of Community Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the 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:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* The title of the collection is the Department Annual Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Office of Community Oriented Policing Service, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: None. Progress Reports are survey instruments that the COPS Office uses to monitor the community policing activities for the Funding Accelerated for Small Towns, the Accelerated Hiring, Education and Development, and/or the Universal Hiring Grant Programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The estimated number of agencies that are eligible to receive and complete the Department Annual report is 6,100. The estimated amount of time required for the average respondent to complete and return the form is 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* An estimate of the total burden hours to conduct this survey is 6,100 hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 14, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02-4222 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-AT-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Addendum to Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on February 11, 2002, a proposed Addendum to the Consent Decree which will modify a settlement previously entered by the Court on March 19, 2001 in *United States and People of the State of Illinois v. Archer Daniels Midland Company* (CD Illinois), (Civil No. 00-2338), was lodged with the United States District Court for the Central District of Illinois. The Consent Decree resolved claims on behalf of the United States Environmental Protection Agency ("EDPA") and the Illinois Environmental Protection Agency ("IEPA") against the Archer Dainels Midland Company ("ADM"). The Complaint, which was filed simultaneously with the lodging of the Decree, alleged violations of the Prevention of Significant Deterioration ("PSD") requirements of Part C of the Clean Air Act (the "CAA"), 42 U.S.C. 7470-7492, and the regulations promulgated thereunder at 40 CFR 52.21 (the "PSD Rules") at the Decatur Illinois plant.

Under the Addendum to the Consent Decree, ADM will install further controls on feed dryers #5 and #6 for more complete reduction of PM and will implement new technology for the control of volatile organic compound ("VOC") emissions from these units by no later than September 30, 2003. The Addendum also establishes term limits to ensure that PM emissions are minimized pending the installation of the additional controls. The State of Illinois is joining with the United States in this action as a signatory to the Addendum.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Addendum to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and refer on its face to *United States and People of the State of Illinois v. Archer Daniels Midland Company*, D.J. Ref. 90-5-2-1-2035/2.

The Consent Decree may be examined at the Office of the United States Attorney, Central District of Illinois, 600 East Monroe Street, Springfield, Illinois 62705 and at EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. A copy of the Addendum may also be obtained by mail from the

Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy, please enclose a check in the amount of \$2.75 (25 cents per page reproduction cost) payable to the U.S. Treasury. The check should refer to *United States and People of the State of Illinois v. Archer Daniels Midland Company*, D.J. Ref. 90-5-2-1-2035/2.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources, Division.

[FR Doc. 02-4312 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(D)(2), AND 28 CFR 50.7, notice is hereby given that on January 11, 2002, a proposed Consent Decree in *United States v. Franc Motors, et al.*, Civil Action No. 3:02CV71(AWT), was lodged with the United States District Court for the District of Connecticut.

In this action, the United States sought recovery of over \$1.6 million of costs incurred by the United States Environmental Protection Agency in conducting a removal action at the National Oil Service Superfund Site in West Haven, Connecticut. The United States filed its complaint pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), seeking recovery of over \$1.6 million. The complaint named 8 defendants which arranged for the disposal of waste oil at the Site. The proposed Consent Decree resolves the United States' cost recovery claims against all of those defendants. Under the proposed Decree, the settling defendants collectively agree to pay \$305,127.14 in partial reimbursement of the United States' response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611,

and should refer on its face to *United States v. Franc Motors, et al.*, D.J. Ref. 90-11-3-07333/3.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Connecticut Financial Center, New Haven, CT, and at the Region 1 office of the Environmental Protection Agency, One Congress Street, Boston, MA. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616-6584; phone confirmation no. (202) 514-1547. There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the "U.S. Treasury," in the amount of five dollars (\$5.00) to the Consent Decree Library, U.S. Department of Justice, PO Box 7611, Washington, DC 20044-7611. The check should refer to *United States v. Franc Motors, et al.*, D.J. Ref. 90-11-3-07333/3.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-4311 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States v. Tennessee Farmers Cooperative et. al.*, Civil Action Number 3-02-0132-Nixon was lodged on February 8, 2002, with the United States District Court for Middle District of Tennessee, Nashville Division. The proposed Consent Decree would resolve certain claims under sections 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9606 & 9607, as amended brought against Tennessee Farmers Cooperative, Scott Fetzer Company, Multimedia, Inc. and R.T. Rivers to recover response costs incurred by the Environmental Protection Agency in connection with the release of hazardous substances at the Wrigley Charcoal Superfund Site ("site") in Wrigley, Hickman County, Tennessee. The United States alleges that Settling Defendants are liable either as persons who currently own or owned a portion of the Site at the time of disposal of a hazardous substance or as persons who arranged for the disposal of

hazardous substances at the Site. Under the proposed Consent Decree, the Settling Defendants will pay \$860,000 to the Hazardous Substances Superfund to reimburse the United States for response costs incurred and to be incurred at the Site. In addition, the proposed Consent Decree also resolves Settling Defendants' potential claims against the Department of Defense ("DOD") in exchange for DOD's reimbursement to EPA of \$450,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20530, and should refer to *United States v. Tennessee Farmers Cooperative et. al.*, Civil Action number 3-02-0132-Nixon, DOJ Ref. #90-11-3-06823.

The Consent Decree may be examined at the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, Atlanta, GA 30303 and the United States Attorney's Office for the Middle District of Tennessee, 110 Ninth Avenue South, Suite A961, Nashville, TN 37203 c/o Assistant U.S. Attorney Michael Roden. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, Post Office Box 7611, Washington, DC 20044. In requesting copies please refer to the referenced case and enclose a check in the amount of \$12.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen Mahan,

Environmental Enforcement Section, Assistant Section Chief, Environment and Natural Resources Division.

[FR Doc. 02-4313 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Application for Waiver of the 2-Year Foreign Residence Requirement.

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 April 23, 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*: Application for Waiver of the 2-Year Foreign Residence Requirement

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I-724J. Office of Adjudications, 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. The information furnished on form will be used by the Immigration and Naturalization Service to determine if the applicant is eligible to receive a waiver of the 2-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 15,000 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 30,000 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. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: January 4, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02-4272 Filed 2-21-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in

accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office

document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at www.access.gpo.gov/davisbacon. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition

(issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 13 day of February 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02-4121 Filed 2-21-02; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Records of All Certified and Qualified Persons; and Man Hoist Operators Physical Fitness

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Record of all Certified and Qualified Persons; and Man Hoist Operators Physical Fitness. MSHA is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before April 23, 2002.

ADDRESSES: Send comments to David L. Meyer, Director, Office of Administration and Management, 4015 Wilson Boulevard, Room 615, Arlington, VA 22203-1984. Commenters are encouraged to send their comments on a computer disk, or via Internet e-mail to Meyer-David@msha.gov, along with an original printed copy. Mr. Meyer can be reached at (703) 235-1383 (voice), or (703) 235-1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Charlene N. Barnard, Regulatory Specialist, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 725, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Ms. Barnard can be reached at barnard-charlene@msha.gov (Internet e-mail), (703) 235-1470 (voice) or (703) 235-1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

30 CFR Sections 75.155, 75.159, 75.160, 75.161, 77.105, 77.107, 77.107-1, and 77.106. Sections 75.155 and

77.105 explain the qualifications to be a qualified hoisting engineer or a qualified hoist man on a slope or shaft sinking operation. These requirements are necessary so that it can be determined who is qualified to perform these tasks and how they can become qualified.

Sections 75.159 and 77.106 requires the operator of a mine to maintain a list of all certified and qualified persons designated to perform certain duties around a mine. This list must be posted.

II. Current Actions

30 CFR 75.155, 75.159, 75.161, and 77.105, 77.106, and 77.107-1, require coal operators to maintain a list of persons who are certified and those who are qualified to perform duties which require specialized expertise at underground and surface coal mines, i.e., conduct test for methane and oxygen deficiency, conduct tests of air flow, perform electrical work, repair energized surface high-voltage lines, and perform duties of hoisting engineer. The regulations also require the mine operator to have an approved training plan so that the qualified and certified people can properly perform their tasks. The recorded information is necessary to ensure that only persons who are properly trained and have the required number of years of experience are permitted to perform these duties. MSHA does not specify a format for the recordkeeping; however, it normally consists of the names of the certified and qualified person listed in two columns on a sheet of paper. One column is for certified persons and the other is for qualified persons.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Records of All Certified And Qualified Persons; and Man Hoist Operators Physical Fitness.

OMB Number: 1219-0127.

Recordkeeping: One year.

Affected Public: Business or other for-profit.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden
75.155	0	0	0	0	0
75.159	877	4	3,508	15	291
75.161	877	1	877	28	7,016
77.105	0	0	0	0	0
77.106	1,488	4	5,952	15	494

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden
77.107-1	1,488	1	1,488	² 8	11,904
Totals	4,730	10	11,825	² 16.66	19,705

¹ Minutes.² Hours.

Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 18, 2002.

David L. Meyer,

Director, Office of Administration, and Management.

[FR Doc. 02-4309 Filed 2-21-02; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted preliminarily annual fee rates of 0.00% for tier 1 and 0.075% (.00075) for tier 2 for calendar year 2002. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the preliminary fee rate on class II revenues for calendar year 2002 shall be one-half of the annual fee rate, which is 0.037% (.00037).

FOR FURTHER INFORMATION CONTACT:

Bobby Gordon, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone 202/632-7003; fax 202/632-7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The

Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 514 and 25 CFR part 518), as amended, provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the

gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the preliminary annual rate being adopted today are effective for calendar year 2002. Therefore, all gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission by March 31, 2002.

Montie E. Deer,

Chairman, National Indian Gaming Commission.

[FR Doc. 02-4326 Filed 2-21-02; 8:45 am]

BILLING CODE 7565-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247]

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Unit No. 2; Exemption

1.0 Background

The Entergy Nuclear Operations, Inc. (ENO or the licensee) is the holder of Facility Operating License No. DPR-26 which authorizes operation of the Indian Point Nuclear Generating Unit No. 2 (IP2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Westchester County in the State of New York.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix G, requires that the Reactor Coolant System (RCS) Pressure-Temperature (P-T) limits for an operating plant be at least as conservative as those that would be generated if the method of Appendix G to Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) (Appendix G to the Code) were applied.

In summary, this action is in response to an application by the Consolidated

Edison Company of New York, Inc. (Con Edison), the former licensee of IP2, for an exemption dated July 16, 2001. On September 6, 2001, Con Edison's interest in the license was transferred to Entergy Nuclear Operations, Inc. (ENO). By letter dated September 20, 2001, ENO requested that the NRC continue to review and act on all requests before the Commission which had been submitted before the transfer. Accordingly, the NRC staff has acted upon the request. The exemption request of July 16, 2001, was supplemented by ENO on January 11, 2002. The exemption would permit the use of the ASME Code, Section XI Code Case N-640, "Alternative Requirement Fracture Toughness for Development of P-T Limit Curves for ASME Section XI Division I," and ASME Code, Section XI Code Case N-588, "Alternative to Reference Flaw Orientation of Appendix G for Circumferential Welds in Reactor Vessels, Section XI, Division I," in lieu of 10 CFR part 50, Appendix G, paragraph I.

2.1 Code Case N-588

The requested exemption would allow use of ASME Code Case N-588 to determine stress intensity factors for postulated flaws and postulated flaw orientation for circumferential welds.

10 CFR part 50, Appendix G requires that Article G-2120 of ASME Code, Section XI, Appendix G, be used to determine the maximum postulated defects in reactor pressure vessels (RPV) for the P-T limits. These limits are determined for normal operation and test conditions. Article G-2120 specifies in part, that the postulated defect be in the surface of the RPV material and normal (*i.e.*, perpendicular) to the direction of maximum stress. ASME Code, Section XI, Appendix G, also provides a methodology for determining the stress intensity factors for a maximum postulated defect normal to the maximum stress. The purpose of this article is, in part, to ensure the prevention of non-ductile fractures by providing procedures to identify the most limiting postulated fractures to be considered in the development of P-T limits. Code Case N-588 provides relief from the Appendix G requirements, in terms of calculating P-T limits, by

revising the Article G-2120 reference flaw orientation for circumferential welds in RPVs. The reference flaw is a postulated flaw that accounts for the possibility of a prior existing defect that may have gone undetected during the fabrication process. Thus, the intended application of a reference flaw is to account for defects that could physically exist within the geometry of the weldment. The current ASME Section XI, Appendix G approach mandates the consideration of an axial reference flaw in circumferential welds for purposes of calculating the P-T limits. Postulating the Appendix G reference flaw in a circumferential weld is physically unrealistic and overly conservative, because the length of the flaw is 1.5 times the RPV wall thickness, which is much longer than the width of circumferential welds. The possibility that an axial flaw may extend from a circumferential weld into a plate or axial weld is already adequately covered by the requirement that defects be postulated in plates/forgings and axial welds.

The fabrication of RPVs for nuclear power plant operation involved precise welding procedures and controls designed to optimize the resulting weld microstructure and to provide the required material properties. These controls were also designed to minimize defects that could be introduced into the weld during the fabrication process. Industry experience with the repair of weld indications found during pre-service inspection, in-service non-destructive examinations, and data taken from destructive examination of actual RPV welds, confirms that any remaining defects are small and do not cross transverse to the weld bead. Therefore, any postulated defects introduced during the fabrication process, and not detected during subsequent non-destructive examinations, would only be expected to be oriented in the direction of weld fabrication. For circumferential welds this indicates a postulated defect with a circumferential orientation. ASME Code Case N-588 addresses this issue by allowing consideration of maximum postulated defects oriented circumferentially in circumferential welds. ASME Code Case N-588 also provides appropriate procedures for determining the stress intensity factors for use in developing RPV P-T limits per ASME Code, Section XI, Appendix G procedures. The procedures allowed by ASME Code Case N-588 are conservative and provide a margin of safety in the development of RPV P-T operating and pressure test limits that

will prevent non-ductile fracture of the RPV.

The proposed P-T limits include restrictions on allowable operating conditions and equipment operability requirements to ensure that operating conditions are consistent with the assumptions of the accident analysis. Specifically, reactor coolant system pressure and temperature must be maintained within the heatup and cooldown rate dependent P-T limits specified in TS Section 3.1.B, "Heatup and Cooldown."

2.2 Code Case N-640

The requested exemption would allow use of ASME Code Case N-640 in conjunction with ASME Code Section XI, Appendix G to determine the P-T limits for the RPV. Code Case N-640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P-T limits. Because use of the K_{Ic} fracture toughness curve results in the calculation of less conservative P-T limits than the methodology currently required by 10 CFR part 50, Appendix G, an exemption to apply the Code Case would be required by 10 CFR 50.60.

The licensee proposed to revise the P-T limits for IP2, using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P-T operating limit curves is more technically correct than the K_{Ia} curve because the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. Additionally, P-T curves based on the K_{Ic} curve will enhance overall plant safety by opening the operating window, with the greatest safety benefit in the region of low-temperature operations.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule."

Code Case N-588

The first of these exemption requests would allow ENO to apply ASME Code Case N-588 as the basis for determining the most limiting material in the IP2 RPV. Code Case N-588 is applicable only for reactor vessels that have a circumferential weld as the most limiting material in the beltline region of the RPV. The Code Case methods allow licensees to apply the lower tensile stresses associated with a circumferential crack postulated in the circumferential weld, and thus allow the licensee to use the next most limiting base metal or axial weld material in the RPV as the basis for evaluating the vessel. Since the IP2 RPV is currently limited by circumferential shell weld for the 1/4T location, this Code Case is applicable to the evaluation of the IP2 RPV.

The staff has determined that Entergy has provided sufficient technical bases for using the methods of Code Case N-588 for the calculation of the P-T limits for the IP2 reactor coolant pressure boundary (RCPB). The staff has also determined that application of Code Case N-588 to the P-T limit calculations will continue to serve the purpose in 10 CFR part 50, Appendix G, for protecting the structural integrity of the IP2 RPV and RCPB. In this case, since strict compliance with the requirements of 10 CFR part 50, Appendix G, is not necessary to serve the underlying purpose of the regulation, the staff concludes that application of Code Case

N-588 to the P-T limit calculations meets the special circumstance provisions stated in 10 CFR 50.12(a)(2)(ii), for granting this exemption to the regulation.

Code Case N-640

Entergy has requested, pursuant to 10 CFR 50.60(b), an exemption to use ASME Code Case N-640 as the basis for establishing the P-T limit curves. Appendix G to 10 CFR part 50 has required use of the initial conservatism of the K_{Ia} equation since 1974 when the equation was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, the industry has gained additional knowledge about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ic} equation is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, the RPV P-T operating window is defined by the P-T operating and test limit curves developed in accordance with the ASME Code, Section XI, Appendix G, procedure.

The ASME Working Group on Operating Plant Criteria (WGOPC) has concluded that application of Code Case N-640 to plant P-T limits is still sufficient to ensure the structural integrity of RPVs during plant operations. The staff has concurred with ASME's determination. The staff has concluded that application of Code Case N-640 would not significantly reduce the safety margins required by 10 CFR part 50, Appendix G. The staff also concluded that relaxation of the requirements of Appendix G to the Code by application of Code Case N-640 is acceptable and would maintain, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the NRC regulations to ensure an acceptable margin of safety for the IP2 RPV and RCPB. Therefore, the staff concludes that Code Case N-640 is acceptable for application to the IP2 P-T limits.

The staff examined the licensee's rationale to support the exemption requests and concluded that ENO has provided sufficient technical bases for using the methods of Code Cases N-588 and N-640 in the calculation of the P-T limits for IP2. The staff has also concluded that application of Code Case N-588 and Code Case N-640 to the P-T limit calculations will continue to serve the purpose in 10 CFR part 50, Appendix G, for protecting the structural integrity of the IP2 RPV and reactor coolant pressure boundary. In this case, since strict compliance with requirements of 10 CFR 50.60(a) and 10

CFR part 50, Appendix G, is not necessary to serve the overall intent of the regulations, the staff concludes that application of the Code Cases N-588 and N-640 to the P-T limit calculations meets the special circumstance provisions in 10 CFR 50.12(a)(2)(ii), for granting exemptions to the regulations, and that, pursuant to 10 CFR 50.12(a)(1), the granting of these exemptions is authorized by law, will not present undue risk to the public health and safety, and is consistent with the common defense and security. The staff, therefore, considers granting exemptions to 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, to allow ENO to use Code Cases N-588 and N-640 as the part of the bases for generating the P-T limit curves for IP2 is appropriate.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants ENO an exemption from the requirements of 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, for the calculation of P-T limits for IP2. The licensee shall use the methods Code Cases N-588 and N-640 in calculation of the P-T limits for IP2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 7206).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of February 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02-4242 Filed 2-21-02; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, February 28, 2002

Thursday, March 14, 2002
Thursday, March 28, 2002
Thursday, April 11, 2002
Thursday, April 25, 2002
Thursday, May 9, 2002
Thursday, May 23, 2002
Thursday, June 6, 2002
Thursday, June 27, 2002

The meeting will start at 10:00 a.m. and will be held in Room 5H09, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street, NW., Washington, DC 20415 (202) 606-1500.

Dated: February 12, 2002.

Mary M. Rose,

Chairperson, Federal Prevailing Rate
Advisory Committee.

[FR Doc. 02-4243 Filed 2-21-02; 8:45 am]

BILLING CODE 6325-49-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45451 File No. SR-AMEX-
2001-47]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to Issuer Listing Standards and Procedures

February 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 16, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to its proposal on January 10, 2002³ and filed Amendment No. 2 to its proposal on February 13, 2002.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the *Amex Company Guide* to adopt (i) new listing standards relating to the authority of the Amex Committee on Securities in respect of its review of initial listings; (ii) new procedures that would impose definitive time limits with respect to how long a non-

compliant company can retain its listing; (iii) substantive revisions to the initial and continued listing standards; and (iv) changes to the appeal procedures applicable to staff denials of initial listing applications and staff delisting determinations. The text of the proposed rule change is available at the principal offices of the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing certain enhancements to its initial and continued listing program. The Amex represents that the proposed changes, which are described below, are designed to provide issuers and investors greater clarity with respect to its listing qualification process, while preserving a degree of measured flexibility in the application of the listing standards and procedures.

The Exchange has also augmented its management reporting system to ensure that senior Exchange management is regularly alerted to any developing trends emerging from the listing qualifications process, with respect to outstanding listing applications, recently approved companies, and companies failing to meet or in jeopardy of failing to meet the continued listing standards. The management review will also encompass the continued status of companies approved pursuant to the proposed alternative standards as compared to those approved pursuant to the regular standards, which will also enable the staff to provide feedback to the Committee on Securities and the Board of Governors as to the effectiveness of these standards and the proposals contained herein.

Initial Listing Approval Process

Currently, the Exchange evaluates applicants for initial listing based on quantitative and qualitative guidelines, and the Exchange may exercise discretion by approving a listing applicant that does not fully satisfy each of the stated numerical guidelines.⁵ This discretion may be exercised in two ways. First, the Listing Qualifications management has the authority to approve a company for initial listing on the basis of its "substantial compliance" with the applicable guidelines. Second, the Amex Committee on Securities (the "Committee"), which the Exchange represents to be comprised of seasoned financial professionals, is authorized by the Amex Board of Governors to use its professional judgment in evaluating whether a particular issuer is appropriate for listing even though it does not fully comply with the numerical guidelines.

To provide issuers and investors with increased transparency and information regarding the manner in which securities are listed on the Amex, the Exchange is proposing the following:

1. Replace all references to listing "guidelines" with references to listing "standards."⁶
2. Revise and clarify the authority of the Listing Qualifications Department management to approve a company for initial listing, to provide that it may approve a company under the following circumstances:
 - The company satisfies new "Initial Listing Standard 1" (existing "Regular Listing Guidelines").
 - The company satisfies new "Initial Listing Standard 2" (existing "Alternate Listing Guidelines").
 - The company satisfies new "Initial Listing Standard 3" (new "Market Capitalization" standard discussed below).
 - The company satisfies new "Initial Listing Standard 4" (new "Currently Listed Securities" standard discussed below).

3. Adopt new quantitative alternative minimum listing standards limiting the authority of Committee panels with respect to the review of initial listings determinations, such that a Committee panel would be able to approve a company that did not satisfy one of the regular initial listing standards only if (a) the company satisfies new

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (January 9, 2002) ("Amendment No. 1"). Amendment No. 1 supercedes and replaces the original 19b-4 filing in its entirety.

⁴ See letter from Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, to Florence Harmon, Senior Special Counsel, Division, Commission (February 13, 2002) ("Amendment No. 2"). In Amendment No. 2, the Exchange corrected various typographical errors, elaborated on the augmentation of its management reporting system, clarified the procedures by which an issuer would be considered under the Alternative Listing Standards, and added inadvertently omitted rule language.

⁵ Section 101 of the *Amex Company Guide* provides that factors other than the specified guidelines will be considered in evaluating listing eligibility, and an application may be approved even if the company does not meet all of the numerical guidelines.

⁶ This change would also apply to references to continued listing guidelines.

alternative quantitative listing standards; (b) a Committee panel makes an affirmative finding that there are mitigating factors that warrant listing pursuant to the alternative standards; and (c) the company issues a press release disclosing the fact that it had been approved pursuant to the alternative listing standards. Committee panels would not have authority to approve companies below the "floor" established by the new alternative quantitative listing standards specified below:⁷

Alternative A

Stockholders' equity of at least \$3,000,000
Pre-tax income of at least \$500,000 in its last fiscal year, or in two of its last three fiscal years
Aggregate Market Value of Publicly Held Shares—\$2,000,000
Distribution—400,000 shares publicly held and 600 public shareholders, or
800,000 shares publicly held and 300 public shareholders
Price—Minimum market price of \$2 per share

Alternative B

Stockholders' equity of at least \$3,000,000.
Aggregate Market Value of Publicly Held Shares—\$10,000,000
Distribution—400,000 shares publicly held and 600 public shareholders, or
800,000 shares publicly held and 300 public shareholders
History of Operations—Two years
Price—Minimum market price of \$2 per share

Continued Listing Process

To strengthen the Exchange's continued listing program, the Exchange is proposing to adopt revised procedures that would impose definitive time limits with respect to how long a company that has fallen below the continued listing standards can remain listed pending corrective action.⁸ The new procedures would provide as follows:

- A company that falls out of compliance with the continued listing standards will be given an opportunity to submit a business plan to the Listing

Qualifications Department detailing the action it proposes to take to bring it into compliance with continued listing standards within 18 months.

- If the Listing Qualifications Department management determines that the company has made a reasonable demonstration of an ability to regain compliance within 18 months, the plan will be accepted. The company would be able to continue its listing for up to 18 months if it issues a press release indicating that it is not in compliance with the continued listing standard and that it has been granted an 18 month extension.⁹

- The Listing Qualifications Department will closely monitor the company's compliance with the plan during the 18-month extension period, and the company will be subject to delisting if it does not show progress consistent with its business plan, if further deterioration occurs or based on public interest concerns.

- At the conclusion of the 18-month extension period, the staff will initiate delisting proceedings if the company has not regained compliance with the continued listing standards.¹⁰

- All staff delisting proceedings can be appealed to a Committee panel; however, the Committee panel will not have the authority to continue the company's listing unless it determines that the company has regained compliance with the continued listing standards.¹¹

Other Changes

The Amex is also proposing to adopt certain new initial and continued listing standards that are necessary and appropriate for the Exchange to administer its listing qualifications function in a more fair, efficient and transparent manner.

With respect to initial listing, the Amex is proposing to adopt two new sets of standards—a "market capitalization" standard and a

"currently listed securities" standard—in addition to the two currently existing standards. Under the "market capitalization" standard, a company would be eligible for initial listing if it meets the following standards:

Shareholders' Equity—\$4 million
Total Value of Market Capitalization—\$50 million
Market Value of Public Float—\$15 million
Public Float/Public Stockholders—\$500,000/800 or \$1 million/400 or \$500,000/400 (plus average daily volume of 2,000 shares).

The "currently listed securities" standard would provide that a company which is currently listed on the New York Stock Exchange or Nasdaq National Market and fully satisfies the Amex continued listing standards will qualify for initial listing.

With respect to continued listing, the Amex is proposing to revise Section 1003(a)(iii) of the *Company Guide* to provide that a company will continue to qualify for listing, even if it has sustained losses from continuing operations and/or net losses in its five most recent fiscal years, if it has stockholders' equity of at least \$6 million. Currently, a company that has sustained such losses is subject to delisting regardless of its stockholders' equity. The Amex believes that this change is appropriate, in that a company which is able to maintain significant shareholders' equity should be able to continue its listing notwithstanding five or more years of losses. The Amex notes that many development stage and research oriented companies often take a number of years to reach profitability. Although not all these companies become profitable, the ability to raise capital, as evidenced by significant shareholders' equity, is often an indication of a company's strength.

In addition, the Amex is proposing to modify the market value of public float continued listing standard contained in Section 1003(b)(i)(C) of the *Company Guide*, to provide that a company will not be considered below continued listing standards unless the aggregate market value of its shares publicly held is less than \$1,000,000 for more than ninety consecutive days. Currently, a literal reading of the provision would result in a listed company technically falling below the requirement if the market value of its public float fell below \$1,000,000 for even one day. In view of the volatility of the markets, the Amex believes it is appropriate to evaluate this listing standard over a period of time.

⁷ See proposed section 1203(c) of the Amex *Company Guide*.

⁸ The Exchange's internal procedures now require analysts to review all company filings within 30 days of issuance to evaluate the issuer's compliance with the Exchange's continued listing standards. Telephone discussion between Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, and Florence E. Harmon, Senior Special Counsel, Division, Commission (February 12, 2002).

⁹ If a company submits a plan that is not accepted, the staff would initiate delisting proceedings, which the company could appeal to the Committee panel. The Committee panel would have the authority to direct the Listing Qualifications Department management to accept the plan only if it finds that the plan does make a reasonable demonstration of an ability to regain compliance with the continued listing standards within 18 months.

¹⁰ The Exchange does not view the one-year probation period as an extension of the 18-month plan period. Telephone discussion between Claudia Crowley, Assistant General Counsel-Listing Qualifications, Amex, and Florence E. Harmon, Senior Special Counsel, Division, Commission (February 14, 2002).

¹¹ Adverse Committee panel decisions could be appealed by the company to the full Committee whose decisions are subject to a call for review by the Amex Board of Governors.

Appeal Procedures Background

In late 2000, in connection with the Nasdaq demutualization, the Amex reintegrated the Listing Qualifications function. Prior to the reintegration, the Amex adopted new procedures applicable to the review of initial listing determinations, modeled on existing Nasdaq listing and delisting procedures.¹² These procedures have been in effect since November 2000. The Amex believes that they have provided increased transparency and clarity to listing applicants with respect to the Amex decision-making process. For example, in the case of initial listings, the staff no longer determines which applications the Committee reviews. Instead, an issuer whose application is denied by the staff has the right to appeal the denial to a subcommittee of the Committee.

According to the Amex, experience with the procedures indicates, however, that changes to certain elements of the procedures might enhance the process in light of the Amex's business objectives and regulatory responsibilities. The Amex is proposing revisions to the delisting hearing procedures to bring them more in line with the listing hearing procedures.¹³

As noted above, in late 2000, the Amex adopted new procedures with respect to the review of staff denials of initial listing applications. These procedures, which are contained in Part 12 of the *Company Guide*, provide an issuer whose listing application has been denied by the staff the right to appeal the staff decision to a subcommittee of the Committee composed of at least two Committee members. A subcommittee's decision to approve an applicant is dispositive, and the issuer will be listed upon such approval by the subcommittee (unless the decision specifies otherwise). An issuer can appeal an adverse subcommittee decision to the Amex Adjudicatory Council ("Adjudicatory Council") within 15 days of the decision. The Adjudicatory Council also

has the right to call any subcommittee decision for review within 45 days of the decision.

The new process has operated relatively smoothly, and has, as noted above, provided increased transparency to listing applicants. The experience of the Committee and Amex staff with the new procedures has, however, revealed certain inconsistencies. For example, the Adjudicatory Council's right to call for review listing decisions by a subcommittee of the Committee could be awkward in the case of an issuer whose securities have already been listed and begun trading. In theory, because the Adjudicatory Council has up to 45 days to call a decision for review, it would be possible for the Adjudicatory Council to reverse a subcommittee decision and deny a listing application in the case of a company whose securities had already been trading for some time. In addition, the Adjudicatory Council's responsibility to review appeals and exercise its call for review authority is burdensome in combination with its other responsibilities to the Board.

The procedures now applicable to the review of staff delisting determinations, which are contained in Section 1010 of the Amex *Company Guide*, are different and do not parallel the initial listing appeal procedures. The Committee hears appeals of staff delisting determinations, but the Committee does not have dispositive authority and acts solely as a fact-finding body for the Board. The Committee's recommendations and findings are forwarded to the Adjudicatory Council, to which the Board has delegated its authority to make delisting determinations. Because the Committee lacks dispositive authority, and transcripts and other relevant information must be forwarded to the Adjudicatory Council for review and decision-making, the delisting decision process can take a significant amount of time to complete. Throughout the process—until the final decision by the Adjudicatory Council—the securities in question will generally continue trading on the Exchange unless a disclosure issue or public interest concern warrants a trading halt.¹⁴

Proposed Changes

The proposed changes make adjustments to the procedures

applicable to the review of initial listing determinations and revise the procedures applicable to the review of delisting determinations to conform to them to initial listing procedures.

The proposal provides issuers with the right to appeal a staff determination to deny initial or continued listing to a panel of at least three members of the Committee. The issuer has the right to appeal an adverse panel's decision to the full Committee.

A panel decision will be dispositive with respect to both listing and delisting decisions. In the case of an appeal of an initial listing denial, this means that if the panel determines to "reverse" the staff determination, the issuer's securities will be approved for listing and listed at the convenience of the issuer. In the case of an appeal of a delisting determination, the delisting action will be stayed pending the outcome of the panel's review.

Following a panel determination to delist, trading in the company's securities will be suspended. If the company does not appeal the panel's decision to the full committee, its securities will be delisted following the expiration of the appeal period, in accordance with Section 12 of the Act¹⁵ and the rules promulgated thereunder. If the company does appeal to the full Committee, the suspension will continue until there is a final decision (either by the full Committee or the Board based on its "call for review"), in which case the securities will be either delisted or the suspension will be lifted, depending on the outcome.

With respect to an initial listing application in which the company appeals an adverse panel decision to the full Committee, if the Committee "reverses" the panel decision and approves the listing, in order to avoid potential market disruptions and investor confusion, the securities will not begin trading unless and until the Board has declined to call such decision for review.¹⁶

While issuers will be able to request either an oral or written hearing at the panel level, appeals to the full Committee will be based on the written record only unless the Committee determines, in its sole discretion, to hold a hearing. All decisions of the full Committee will also be subject to a discretionary "call for review" by the Amex Board of Governors.¹⁷ If the Board

¹² See Securities Exchange Act Release No. 43308 (September 20, 2000), 65 FR 58136 (September 27, 2000) (SR-Amex-00-12).

¹³ In this regard, in February 2001 Amex Chairman Salvatore F. Sodano established the Chairman's Advisory Council on Listing Qualifications ("Advisory Council"). The Advisory Council, which was composed of prominent securities industry professionals, was charged with conducting a review of the Amex procedures and policies relating to the equity listing functions. The Advisory Council's primary goal was to conduct a review of and make recommendations with respect to the process for appealing initial listing and delisting decisions. In this regard, the Advisory Council, in consultation with Amex senior management, developed the proposal described herein.

¹⁴ The company will typically not be delisted until ten days after the Adjudicatory Council's decision, because Exchange Act Rule 12d2-2 requires the Exchange to file an application with the SEC to delist a security, which application becomes effective ten days after filing with the SEC. 17 CFR 240.12d2-2.

¹⁵ 15 U.S.C. 78l.

¹⁶ If the Board were to call such a Committee decision for review, the securities would be listed only if the Board affirmed the Committee decision.

¹⁷ The Amex notes that an issuer may appeal to the SEC in accordance with Section 19 of the Exchange Act following final action by the

decision provides that the issuer's security or securities should be delisted, the Exchange will suspend trading in such security or securities as soon as practicable, if it has not already done so pursuant to Section 1204(d), and an application will be submitted by the Exchange staff to the Commission to strike the security or securities from listing and registration in accordance with Section 12 of the Act¹⁸ and the rules promulgated thereunder. In the event that the Board was to "reverse" a full Committee decision, the issuer's listing status would be adjusted accordingly. Because panel decisions will be dispositive, as noted above, if trading in an issuer's securities were suspended pursuant to an adverse panel decision, the suspension would be lifted, as noted above, if the final decision (either by the Amex Board or the full Committee if the Board does not exercise its "call for review") reverses the panel's decision. Similarly, in the case of an initial listing application, the issuer's securities will be listed if the final decision reverses an adverse panel decision.

The proposal does not contemplate changes to the administration of the hearing process, and the Hearings staff of the Listing Qualifications Department will continue to administer the process. Amex staff attorneys will, as they do now, provide independent counsel to the panels and the full Committee with respect to relevant procedures, precedents and standards.¹⁹

Additionally, in order to recoup the costs associated with processing and conducting hearings in connections with issuer requests for review, the Amex will continue to charge a fee of \$2,500 for an oral hearing and \$1,500 for a written review. Thus an issuer requesting an oral hearing before a panel will be assessed a fee of \$2,500, while an issuer requesting a written review by a panel will be assessed a fee of \$1,500. Should the issuer appeal the panel's decision to the full Committee, it will be assessed an additional fee of \$2,500. Issuers will not be charged fees in connection with a "call for review" by the Board of Governors.

The Amex believes that these proposed changes will provide appropriate due process to issuers, as well as increased efficiency to the listing and delisting processes in a number of respects:

- The Committee, which has extensive experience and expertise in evaluating listing issues, will be given greater responsibility with respect to listing determinations, while the Board, through its "call for review" rights, will retain ultimate oversight of the listing and delisting process as well as of listing matters in general.
- The delays currently inherent in the delisting process should be substantially reduced.
- The potentially disruptive impact of a "call for review" will be reduced since only decisions of the full Committee will be subject to "call for review," as opposed to all subcommittee decisions, as is currently the case.
- The Committee will now follow the same review process for both listing and delisting determinations, rather than different processes for each.
- The burdens on the Adjudicatory Council will be reduced by the transfer to the Committee of the Council's existing areas of responsibility with respect to the listing qualifications process.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,²⁰ in general, and Section 6(b)(5) of the Act,²¹ in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. More specifically, the Exchange believes that the proposed rule change will enable the Exchange to administer its listing program in a more fair, efficient and transparent manner that reflects the rapidly evolving changes in the economy and capital markets. Additionally, the Exchange believes that with respect to companies listed pursuant to the proposed Alternative Listing Standards, investors will derive the benefits inherent in an Amex listing of comprehensive regulation, transparent price discovery

and trade reporting to facilitate best execution, and increased depth and liquidity resulting from the confluence of order flow found in an auction market environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No.

Exchange, which would be either (a) the expiration of the Board of Governors' "call for review" period following an adverse decision by the full committee, or (b) an adverse decision by the Board of Governors. 15 U.S.C. 78s.

¹⁸ 15 U.S.C. 78l.

¹⁹ At the Exchange's request, the Commission replaced the word "guidelines" with the word "standards." Telephone discussion between Claudia Crowley, Assistant General Counsel—Listing Qualifications, Amex, and Christopher B. Stone, Attorney Advisor, Division, Commission (January 31, 2002).

²⁰ 15 U.S.C. 78f(b).

²¹ 15 U.S.C. 78f(b)(5).

SR-AMEX-2001-47 and should be submitted by March 15, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-4231 Filed 2-21-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45452; File No. SR-NYSE-2001-49]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amending New York Stock Exchange Rule 902 (Off-Hours Trading Orders)

February 15, 2002.

On December 11, 2001, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change amending NYSE Rule 902, Off-Hours Trading Orders, to permit the submission of member to member coupled orders in Crossing Session I in order to close out error positions.

The proposed rule change was published for comment in the **Federal Register** on January 14, 2002.³ The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,⁴ and, in particular, the requirements of section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act.⁶ Section 6(b)(5)⁷ requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable

principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change promotes the objectives of this section of the Act. Specifically, the proposed rule change allows the submission of member to member coupled orders during Crossing Session I, when they normally would not be permitted, for the limited purpose of closing out error positions.⁸ The Commission believes that this limited exception will foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system by removing an impediment to closing out error positions. Moreover, the Commission believes that it is generally in the public interest to facilitate the closing out of error positions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-NYSE-2001-49) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-4233 Filed 2-21-02; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45442; File No. SR-Phlx-2001-115]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Volume Thresholds for the Options Specialist Shortfall Fee and Corresponding Shortfall Credit

February 13, 2002.

I. Introduction

On December 20, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its schedule of dues, fees and charges to increase the requisite volume thresholds associated with the options specialist 10 percent deficit fee ("shortfall fee") and corresponding options specialist 10 percent shortfall credit ("shortfall credit"). The Exchange also proposed to amend the definition of a Top 120 Option, clarify who is eligible to receive the shortfall credit and make other minor, technical amendments to its fee schedule. On January 15, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.³

The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on January 28, 2002.⁴ The comment period was for fifteen days and expired on February 12, 2002. No comments were received regarding the proposed rule change, as amended. This order approves the proposed rule change, as amended, on an accelerated basis.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Cynthia K. Hoekstra, Counsel, Phlx, to Kelly Riley, Senior Special Counsel, Division of Market Regulation, Commission, dated January 14, 2002 ("Amendment No. 1"). In Amendment No. 1, the Exchange expanded the statutory basis of the proposed rule change to include section 6(b)(4) of the Act. In addition, the Exchange requested that the proposed rule change be filed pursuant to section 19(b)(2), rather than section 19(b)(3)(A)(ii), of the Act. Finally, the Exchange requested that the proposed fee be approved as of January 2, 2002, and that the proposed rule change be approved on an accelerated basis in order to permit the Exchange to invoice its January fees in a timely manner by the middle of February.

⁴ See Securities Exchange Act Release No. 45322 (January 22, 2002), 67 FR 3927.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 45251 (January 8, 2002), 67 FR 1793.

⁴ In approving this proposed rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

⁸ The NYSE confirmed that the new exception to NYSE Rule 902(a)(ii) (embodied in proposed NYSE Rule 902(a)(ii)(C)) is subject to NYSE Rule 906, Impact of Trading Halts on Off-Hours Trading, and, therefore, the proposed exception does not permit trading of a security that is subject to a trading halt under NYSE Rule 906 (a) or (b). Telephone discussion between Donald Siemer, Director Rule Development, Market Surveillance Division, NYSE, and Christopher B. Stone, Attorney Advisor, Division of Market Regulation, Commission (January 7, 2002).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

II. Description of the Proposed Rule Change

The Exchange proposes to increase the volume thresholds related to the options specialist shortfall fee⁵ and corresponding shortfall credit.⁶ Currently, the Exchange imposes a fee of \$0.35 per contract to be paid by the specialist trading any Top 120 Option if at least 10 percent of the total national monthly contract volume ("total volume") for such Top 120 Option is not affected on the Exchange in that month.⁷ The Exchange proposes to increase the requisite volume thresholds by 1 percent per quarter over each quarter of 2002. Thus, the minimum trading volume requirements for total volume in the Top 120 Options would be in excess of: 11 percent for the period January through March 2002; 12 percent for the period April through June 2002; 13 percent for the period July through September 2002; and 14 percent for the period October through December 2002.

In addition, the Exchange permits a corresponding shortfall credit of \$0.35 per contract to be earned toward previously imposed shortfall fee for each contract traded in excess of the current 10 percent volume threshold during a subsequent monthly time period.⁸ The specialist may apply for the shortfall credit when trading in an issue falls below the 10 percent volume threshold in one month and exceeds the threshold in a subsequent month. The Exchange also proposes to amend the related shortfall credit to correspond with the volume thresholds described above. Therefore, in order to qualify for the shortfall credit, specialists/specialist units must have total volume in the Top

120 Options (that otherwise qualify based on the 10 million contract volume requirement) in excess of: 11 percent for the period January through March 2002; 12 percent for the period April through June 2002; 13 percent for the period July through September 2002; and 14 percent for the period October through December 2002.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6 of the Act⁹ and the rules and regulations thereunder applicable to a national securities exchanges.¹⁰ The Commission finds specifically that the proposed rule change is consistent with section 6(b)(4) of the Act,¹¹ which requires, among other things, that the rules of a national securities exchange be designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Further, the Commission believes that the proposed fee may enhance inter-market competition by encouraging Phlx specialists to compete for order flow. In addition, Phlx specialists' efforts to maintain the requisite volume thresholds as outlined above may contribute to deeper, more liquid markets and narrower spreads.

The Exchange proposed to implement the proposed fees as of January 2, 2002. The Commission believes that it is reasonable for the Phlx to implement these fees retroactively to coincide with the New Year. Further, the Commission notes that it did not receive any comments on the proposed retroactive application of the fee and credit.

Furthermore, the Commission finds good cause for approving the proposed rule change and Amendment No. 1 prior to the thirtieth day after notice of the publication in the **Federal Register**. Accelerated approval will permit the Exchange to invoice its January fees in a timely manner by the middle of February. In addition, the Commission received no comments on the proposed rule change and Amendment No. 1. Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act¹² to approve the proposed rule change, as amended, on an accelerated basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-Phlx-2001-1115), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-4232 Filed 2-21-02; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-244]

WTO Dispute Settlement Proceeding Brought by Japan Regarding the Sunset Review of the Antidumping Duty Order Imposed by the United States on Corrosion-Resistant Carbon Steel Flat Products From Japan

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on January 30, 2002, the United States received from Japan a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) regarding certain aspects of the final determinations of both the United States Department of Commerce (DOC) and the United States International Trade Commission (ITC) in the full sunset review of Corrosion-Resistant Carbon Steel Flat Products from Japan issued on August 2, 2000, and November 21, 2000, respectively. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 12, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to japancrsteel@ustr.gov, or (ii) by mail, to Sandy McKinzy, Attn: Japan Corrosion-

⁵ See Securities Exchange Act Release No. 43201 (August 23, 2000), 65 FR 52465 (August 29, 2000) (SR-Phlx-00-71).

⁶ See Securities Exchange Act Release No. 44892 (October 1, 2001), 66 FR 51487 (October 9, 2001) (SR-Phlx-2001-83).

⁷ The Exchange states that at present a Top 120 Option is defined as one of the 120 most actively traded equity options in terms of the total number of contracts in that option that were traded nationally for a specified month based on volume reflected by The Options Clearing Corporation ("OCC") and which was listed on the Exchange after January 1, 1997. The Exchange proposes to amend the definition of a Top 120 Option to include the top 120 most actively traded equity options in terms of the total number of contracts in that option that were traded nationally for a specified month based in volume reflected by OCC. The Phlx intends to continue to divide by two the total volume reported by OCC, which reflects both sides of an executed transaction, thus avoiding one trade being counted twice for purposes of determining overall volume. See Securities Exchange Act Release No. 43201 (August 23, 2000), 65 FR 52465 (August 29, 2000) (SR-Phlx-00-71).

⁸ To be eligible for the shortfall credit, the option must trade in excess of 10 million contracts nationwide during the month in which the deficit occurs.

⁹ 15 U.S.C. 78f.

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78s(b)(2).

¹³ *Id.*

¹⁴ 17 CFR 200.30-3(a)((12).

Resistant Steel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, with a confirmation copy sent electronically or by fax to (202) 395-3640.

FOR FURTHER INFORMATION CONTACT:

Katherine J. Mueller, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-0317.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (DSU). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by Japan

Japan alleges that the DOC and ITC final determinations in the full sunset review of Corrosion-Resistant Carbon Steel Flat Products from Japan issued on August 2, 2002, and November 21, 2000, respectively, are erroneous and based on WTO-inconsistent provisions of the Tariff Act of 1930 and related regulations. Japan points in particular to:

- the automatic initiation of the sunset review without sufficient evidence;
- the likelihood standard used in determining whether to revoke or terminate an order, including the "good cause" provision determining whether the DOC may consider other relevant factors;
- the use of original dumping margins without careful examination of dumping and injury;
- the determination of the likelihood of continued dumping on an order-wide basis rather than a company-specific basis;
- the treatment as "zero" of negative dumping margins in the average-to-average or transaction-to-transaction methodologies in calculating dumping margins in sunset reviews;

- the application of a *de minimis* standard of 0.5 percent in sunset reviews;

• the cumulative assessment of the volume and the effect of subject imports "from all countries" where such imports are likely to have a discernible adverse impact on the domestic industry.

Japan contends that these aspects of the final determinations are inconsistent with Articles VI and X of GATT 1994; Articles 2, 3, 5, 6 (including Annex II), 11, 12, and 18.4 of the Antidumping Agreement; and Article XVI:4 of the Agreement establishing the World Trade Organization.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English. Commenters should send either one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above, or transmit a copy electronically to japancrsteel@ustr.gov. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to (202) 395-3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters "BC", and the file name of the public version should begin with the characters "P". The "P" or "BC" should be followed by the name of the commenter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential

in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy, or appropriately name the electronic file submitted containing such material; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-244, Japan Corrosion-Resistant Steel Dispute) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Christine Bliss,

Acting Assistant United States Trade Representative, for Monitoring and Enforcement.

[FR Doc. 02-4214 Filed 2-21-02; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

**Environmental Impact Statement/
Section 4(f) Evaluation: Prince
George's County, Maryland**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS)/Section 4(f) Evaluation will be prepared for a proposed transportation project in Prince George's County, Maryland.

FOR FURTHER INFORMATION CONTACT: Ms. Caryn Brookman, Environmental

Protection Specialist, Federal Highway Administration, The Rotunda—Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (410) 962–4342, Extension 130.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, will prepare an EIS/Section 4(f) Evaluation on the proposed alternates to improve US 1 and MD 201 in Prince George's County, Maryland. The Environmental Protection Agency and the U.S. Army Corps of Engineers have been invited to participate as cooperating agencies.

Continued growth in population and development is creating traffic congestion along existing US 1 and MD 201. The local roadway network will soon reach capacity and will be unable to accommodate future travel demand. Improvements within the corridor will address safety problems and accommodate existing and projected travel demand.

The alternatives under consideration include (1) taking no action; (2) using multi-modal strategies and intersection improvements without the addition of through travel lanes or new roadways; (3) widening US 1 from Sunnyside Avenue to MD 198 and improving intersections on US 1 and MD 201; (4) widening MD 201 from Sunnyside Avenue to Odell Road, providing a new roadway on a new alignment from MD 201 at Odell Road to Ritz Way/Virginia Manor Road, realigning and widening Virginia Manor Road and Van Dusen Road, and improving major intersections on MD 201; (5) widening MD 201 from Sunnyside Avenue to Muirkirk Road, extending MD 201 from Muirkirk Road to Contee Road, and improving major intersections on MD 201 and US 1; (6) widening US 1 from Sunnyside Avenue to MD 198, widening MD 201 from Sunnyside Avenue to Muirkirk Road, extending MD 201 from Muirkirk Road to Contee Road, and widening and improving cross streets (Sunnyside Avenue, Powder Mill Road, Muirkirk Road, and Contee Road) from MD 201 to US 1; and (7) widening US 1 from Sunnyside Avenue to MD 198, widening MD 201 from Sunnyside Avenue to Odell Road, providing a new roadway from MD 201 to Ritz Way/Virginia Manor Road, realigning and widening Virginia Manor Road and Van Dusen Road from Muirkirk to MD 198, and extending MD 201 from Muirkirk Road to Contee Road.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, private organizations, and to

citizens who have previously expressed or are known to have an interest in this project. A public hearing is tentatively scheduled for Fall of 2002. Public notice will be given of the time and place of this hearing.

The draft EIS/Section 4(f) Evaluation will be available for public and agency review and comment prior to the public hearing. Scoping meetings for the public, agencies, and for the Metropolitan Washington Council of Governments have been conducted throughout the course of the project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning these proposed actions and the EIS/Section 4(f) Evaluation should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program).

Daniel W. Johnson,

Environmental Program Manager, Baltimore, Maryland.

[FR Doc. 02–4230 Filed 2–21–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2002–1617]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to revise the following currently approved information collection: Customer Service Surveys.

DATES: Comments must be submitted before April 23, 2002.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590. All

comments received will be available for examination at the above address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Yvonne Griffin, Office of Budget and Policy, (202) 366–1727.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Customer Service Surveys (OMB Number: 2132–0559).

Background: Executive Order 12862, “Setting Customer Service Standards,” requires FTA to identify its customers and determine what they think about FTA’s service. The surveys covered in this request for a blanket clearance will provide FTA with a means to gather data directly from its customers. The information obtained from the surveys will be used to assess the kind and quality of services customers want and their level of satisfaction with existing services. The surveys will be limited to data collection that solicit voluntary opinions and will not involve information that is required by regulations.

Respondents: State and local government, public transit operators, Metropolitan Planning Organizations (MPOs), transit constituents, transit manufacturers, and private transit operators.

Estimated Annual Burden on Respondents: Varies according to survey.

Estimated Total Annual Burden: 2,035 hours.

Frequency: Annual.

Issued: February 19, 2002.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

[FR Doc. 02–4283 Filed 2–21–02; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[STB Docket No. MC-F-20988]**

Holland America Line—Westours, Inc.—Control—Westours Motor Coaches, Inc., Evergreen Trails, Inc., Westmark Hotels of Canada Ltd., and Horizon Coach Lines Ltd.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Holland America Line—Westours, Inc. (HAL), a noncarrier holding company that controls three motor passenger carrier subsidiaries, Westours Motor Coaches, Inc. (WMC), Evergreen Trails, Inc. (Evergreen), and Westmark Hotels of Canada Ltd. (Westmark),¹ has filed an application under 49 U.S.C. 14303 for acquisition of control by HAL, through its Westmark subsidiary, of another Federally regulated passenger carrier, Horizon Coach Lines Ltd. (Horizon).² Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, as well as the acquisition of control of Horizon by Westmark, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due April 8, 2002. Applicant may reply by April 23, 2002. If no comments are received by April 8, 2002, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20988 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of comments to applicant's representative: Jeremy Kahn, Kahn & Kahn, 1730 Rhode Island Ave., NW., Suite 810, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1642. [TDD for the hearing impaired: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: HAL is a noncarrier that currently controls three regulated passenger carrier subsidiaries, WMC (Docket No. MC-118832), Evergreen (Docket No. MC-107638), and Westmark (Docket No. MC-405618).

¹ HAL's control of the 3 carriers was approved by the Board in *Holland America Line—Westours, Inc.—Control—Westmark Hotels of Canada Ltd.*, STB Docket No. MC-F-20985 (STB served Oct. 10, 2001).

² Horizon holds operating authority in MC-144339.

Under the proposed transaction, HAL is seeking to acquire control, through its Westmark subsidiary, of another regulated passenger carrier, Horizon.³ Westmark is acquiring the stock of Horizon.⁴ HAL states that it focuses its passenger carrier services in the Pacific Northwest, mainly in the states of Washington and Alaska and in adjacent Canadian areas, including the province of British Columbia and the Yukon Territory. Horizon's operations are mainly concentrated in Canada.

HAL has submitted information, as required by 49 CFR 1182.2(a)(7), to demonstrate that the proposed acquisition of control is consistent with the public interest under 49 U.S.C. 14303(b). HAL states that the proposed transaction will have no impact on the adequacy of transportation services available to the public, that the operations of the carriers involved will remain unchanged, that there are no fixed charges associated with the proposed transaction, and that no carrier employees will be adversely affected by the transaction. In addition, HAL has submitted all of the other statements and certifications required by 49 CFR 1182.2. Additional information, including a copy of the application, may be obtained from the applicant's representative.

Under 49 U.S.C. 14303, we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

³ The Board recently granted interim approval to HAL to acquire control, through its Westmark subsidiary, of Horizon. *Holland America Line—Westours, Inc.—Control—Westours Coaches, Inc., Evergreen Trails, Inc., Westmark Hotels of Canada Ltd., and Horizon Coach Lines, Ltd.*, STB Docket No. MC-F-20988 TA (STB served Feb. 1, 2002).

⁴ Accordingly, Westmark will also control Horizon. Although applicant did not specifically request such relief, we are tentatively approving the acquisition of control of Horizon by Westmark.

Board decisions and notices are available on our website at www.stb.dot.gov.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control of Horizon by HAL and the acquisition of control of Horizon by Westmark are approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on April 8, 2002, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: February 14, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,
Secretary.

[FR Doc. 02-4139 Filed 2-21-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[STB Finance Docket No. 34170]**

Utah Transit Authority—Acquisition Exemption—Certain Assets of Union Pacific Railroad Company

The Utah Transit Authority (UTA), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire from the Union Pacific Railroad Company (UP) several railroad rights-of-way and related improvements, totaling approximately 62.77 miles, in Davis, Weber, Salt Lake and Utah Counties, UT. UTA proposes to acquire UP's right, title and interest in the following rail lines: (1) The Salt Lake Subdivision between approximately milepost 754.31 in Bountiful and approximately milepost 778.00 in Ogden; (2) the Provo Industrial Lead between approximately milepost P-775.23 in Point of Mountain and approximately milepost P-762.00 in Hardy; (3) the Sharp Subdivision between approximately milepost P-

752.41 in Provo and approximately milepost P-757.25 in Lakota Junction; (4) the Tintic Industrial Lead between approximately milepost 0.00 in Springville and approximately milepost 13.06 in Payson; (5) the Sugarhouse Spur between approximately milepost 0.00 and approximately milepost 2.74 in Salt Lake City; and (6) the Bingham Industrial Lead between approximately milepost 6.60 in Bagley and approximately milepost 11.81.¹

UTA indicates that it does not intend to conduct freight rail operations on any of the lines, but is acquiring them for possible passenger rail operations. According to UTA, UP will retain an exclusive, perpetual, transferable and irrevocable easement on the lines to conduct freight operations.

Consummation of this transaction is expected to occur on or about May 30, 2002.

If the notice contains false or misleading information, the exemption is void *ab initio*.² Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34170, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, Suite 200, Washington, DC 20036-1221.

¹ UTA also proposes to acquire from UP portions of the width of the following rights-of-way: (1) the Salt Lake Subdivision between approximately milepost 782.48 in Salt Lake City, and approximately milepost 818.05 in Ogden; (2) the Provo Subdivision between approximately milepost 705.71 at Lakota Junction and approximately milepost 729.29; (3) the Provo Subdivision between approximately milepost 729.50 and approximately milepost 745.50 in Salt Lake City; (4) the Sharp Subdivision between approximately milepost P-752.41 in Provo and approximately milepost 750.81; (5) the Sharp Subdivision between approximately milepost P-749.99 in Provo, and approximately milepost 745.82 in Spanish Fork; and (6) the Bingham Industrial Lead between approximately milepost 0.00 in Midvale, and approximately milepost 6.60 at Bagley. UTA asserts that acquisition of these portions of rail rights-of-way is not subject to Board jurisdiction, citing *Sacramento Regional Transit District-Petition For Declaratory Order Regarding Carrier Status*, STB Finance Docket No. 33796 (STB served July 5, 2000); and *Southern Pacific Transportation Company—Abandonment Exemption—Los Angeles County, CA*, 9 I.C.C.2d 385, 390 (1993).

² UTA simultaneously filed a motion to dismiss this proceeding, contending that the Board does not have jurisdiction over this transaction. The motion will be addressed by the Board in a separate decision.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: February 14, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02-4138 Filed 2-21-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 14, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 25, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545-1548.

Revenue Procedure Number: Revenue Procedure 98-55.

Type of Review: Revision.

Title: Late Election Relief for S Corporation.

Description: The IRS will use the information provided by taxpayers under this revenue procedure to determine whether relief should be granted for the relevant late election.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 25,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 25,000 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 02-4228 Filed 2-21-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 25, 2002 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545-1479.

Regulation Project Number: IA-41-93 Final.

Type of Review: Extension.

Title: Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time To File Partnership Return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return.

Description: Under section 1.6081-4, an individual required to file an income tax return is allowed an automatic 4-month extension of time to file if (a) an application is prepared on Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," or in such other manner as may be prescribed by the Internal Revenue Service (IRS), (b) the application is filed on or before the date the return is due; and (c) the application shows the full amount properly estimated as tax.

Respondents: Individuals or households.

Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1 hour.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577,

1111 Constitution Avenue, NW.,
Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt
(202) 395-7860, Office of Management
and Budget, Room 10202, New
Executive Office Building, Washington,
DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.
[FR Doc. 02-4255 Filed 2-21-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2002.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 25, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545-1483.

Form Number: IRS Form W-7.

Type of Review: Extension.

Title: Application for IRS Individual Taxpayer Identification Number.

Description: Regulations under Internal Revenue Code (IRC) section 6109 provide for a type of taxpayer identifying number called the "IRS individual taxpayer identification number" (ITIN). Individuals who currently do not have, and are not eligible to obtain, social security numbers can apply for this number on Form W-7. Taxpayers may use this number when required to furnish a taxpayer identifying number under regulations. An ITIN is intended for tax use only.

Respondents: Individuals or households

Estimated Number of Respondents: 500,000.

Estimated Burden Hours Per Respondent:

Learning about the law or the form—13 min.

Preparing the form—29 min,
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Other (Individuals file once to get an ITIN).

Estimated Total Reporting Burden: 525,000 hours.

OMB Number: 1545-1757.

Regulation Project Number: REG-105344-01 NPRM and Temporary.

Type of Review: Extension.

Title: Disclosure of Returns and Return Information by Other Agencies.

Description: In general, under the regulations, the IRS is permitted to authorize agencies with access to returns and return information under section 6103 of the Internal Revenue Code to redisclose returns and return information based on a written request with the Commissioner's approval, to any authorized recipient set forth in Code section 6103, subject to the same conditions and restrictions, and for the purposes, as if the recipient had received the information from the IRS directly.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 11.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 11 hours.

Clearance Officer: George Freeland,
Internal Revenue Service, Room 5577,
1111 Constitution Avenue, NW.,
Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.
[FR Doc. 02-4256 Filed 2-21-02; 8:45 am]

BILLING CODE 4830-01-P

Corrections

Federal Register

Vol. 67, No. 36

Friday, February 22, 2002

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.

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0235]

Submission for OMB Review; Comment Request Entitled Price Reductions Clause

Correction

In notice document 02-3533 beginning on page 6713 in the issue of Wednesday, February 13, 2002, make the following correction:

On page 6713, in the **SUMMARY** section, in the twelfth line "October 20" should read "October 30".

[FR Doc. C2-3533 Filed 2-21-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-CE-38-AD; Amendment 39-12638; AD 2002-02-10]

RIN 2120-AA64

Airworthiness Directives; Pilatus Britten-Norman Limited BN-2, BN-2A, BN-2B, and BN-2T Series Airplanes

Correction

In rule document 02-2946 beginning on page 6388 in the issue of Tuesday,

February 12, 2002 make the following correction:

§39.13 [Corrected]

On page 6389, in § 39.13(d), in the table, the second column, under the heading "Compliance", the last sentence "Replace thereafter prior to further bulletin), flight after any loose rivet, structural accomplish the damage, or crack is found." should read "Replace thereafter prior to further flight after any loose rivet, structural damage, or crack is found."

[FR Doc. C2-2946 Filed 2-21-02; 8:45 am]

BILLING CODE 1505-01-D

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[FR Doc. C2-3533 Filed 2-21-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-CE-38-AD; Amendment 39-12638; AD 2002-02-10]

RIN 2120-AA64

Airworthiness Directives; Pilatus Britten-Norman Limited BN-2, BN-2A, BN-2B, and BN-2T Series Airplanes

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[FR Doc. C2-2946 Filed 2-21-02; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Friday,
February 22, 2002**

Part II

Department of Transportation

Federal Aviation Administration

Transportation Security Administration

14 CFR Parts 91 et al.

49 CFR Parts 1500 et al.

Civil Aviation Security Rules; Final Rule

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

14 CFR Parts 91, 107, 108, 109, 121, 129, 135, 139, and 191

Transportation Security Administration

49 CFR Parts 1500, 1510, 1520, 1540, 1542, 1544, 1546, 1548, 1550

[Docket No. TSA-2002-11602; Amendment Nos. 91-272; 107-15; 108-20; 109-4; 121-289; 129-31; 135-83; 139-24; 191-5]

RIN 2110-AA03

Civil Aviation Security Rules

AGENCY: Federal Aviation Administration (FAA) and Transportation Security Administration (TSA), DOT.

ACTION: Final rule.

SUMMARY: This rulemaking transfers the FAA's rules governing civil aviation security to TSA. This rulemaking also amends those rules to enhance security as required by recent legislation. This rulemaking also requires additional qualifications, training, and testing of individuals who screen persons and property that are carried in passenger aircraft. It is intended to improve the quality of screening conducted by aircraft operators and foreign air carriers. This rule is being adopted to improve the qualifications of individuals performing screening, and thereby to improve the level of security in air transportation. This will help ensure a smooth transition of aviation security from the FAA to TSA, and will avoid disruptions in air transportation due to any shortage of qualified screeners.

DATES: This rule is effective February 17, 2002. The incorporation by reference of certain publications in the rule is approved by the Director of the Federal Register as of February 17, 2002. Submit comments by March 25, 2002.

ADDRESSES: You may obtain a copy of this final rule from the DOT public docket through the Internet at <http://dms.dot.gov/>, docket number TSA-2002-11602. If you do not have access to the Internet, you may obtain a copy of the working draft by United States mail from the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify Docket Number TSA-2002-11602 and request a copy of the final rule entitled "Civil Aviation Security Rules."

You may also review the public docket in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the Department of Transportation.

FOR FURTHER INFORMATION CONTACT: Scott Cummings, telephone 202-267-3413. For Part 1542—Brian Reed; for Part 1544—Lon M. Siro; for Part 1546—Nouri Larbi; for Part 1548—John F. DelCampo; Transportation Security Administration, Department of Transportation, Washington, DC 20591; telephone 202-267-3413.

SUPPLEMENTARY INFORMATION:**Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb. 26, 1979), however, provides that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA or TSA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

TSA and the FAA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Abbreviations and Terms Used In This Document

ASIA 2000—Airport Security Improvement Act of 2000
ATSA—Aviation and Transportation Security Act
Computer Assisted Passenger Prescreening System (CAPPS)
GED—General Equivalency Diploma
Screening company NPRM—Notice of Proposed Rulemaking, Certification of Screening Companies, 65 FR 560 (January 5, 2000)

SIDA—Security identification display areas
SSI—Sensitive security information
TIP—Threat image projection
TSA—Transportation Security Administration

Background*Regulatory and Legislative Context*

The current aviation security rules are in title 14 of the Code of Federal Regulations. Part 107 governs airport operators that serve certain passenger operations of air carriers and commercial operators. Part 108 is for certain aircraft operators that hold U.S. air carrier or commercial operator certificates. Part 109 prescribes rules for indirect air carriers such as freight forwarders. Several sections in part 129 govern certain foreign air carriers that operate to, from, and within the United States. Aircraft operators and foreign air carriers are responsible for screening passengers and property that are carried on their aircraft. Part 191 covers the protection of sensitive security information. In addition, Special Federal Aviation Regulation 91 (SFAR 91) covers certain other aircraft operators. These rules were issued by the Administrator of the Federal Aviation Administration.

On January 5, 2000, the FAA published a Notice of Proposed Rulemaking (NPRM) that proposed to require FAA-certification for all companies that provide screening under 14 CFR parts 108, 109, and 129. See 65 FR 560. The screening company NPRM proposed such additional measures as improved training, FAA tests, and monitoring of the tests by aircraft operators. Further, the Airport Security Improvement Act of 2000 (ASIA 2000), Public Law 106-528, provided in part that training for screeners must include at least 40 hours of classroom instruction, with certain exceptions. The final rule on certification of screening companies was approved for publication shortly before the terrorist attacks of September 11, 2001, occurred.

September 11 Terrorist Attacks, and the Continuing Threat to Aviation Security

The September 11, 2001, terrorist attacks involving four U.S. commercial aircraft that resulted in the tragic loss of human life at the World Trade Center, the Pentagon, and southwest Pennsylvania, demonstrate the need for increased air transportation security measures. The Al-Qaeda organization, which was responsible for the attacks, possesses a near global network. The leaders of the groups constituting this organization have publicly stated that

they will attack the United States, its institutions, and its individual citizens. They retain a capability and willingness to conduct airline bombings, hijackings, and suicide attacks against U.S. targets: the December 22, 2001, attempted bombing of a U.S. carrier on a flight from Paris illustrates the continuing danger. Finally, it should be underscored that, although other potential threats to U.S. civil aviation may be overshadowed at present, they are no less important. For example, the uncertain course of the Middle East peace process, negative reactions to the U.S.-led military campaign in Afghanistan, and Iraqi opportunism in response to continued United Nations sanctions are among the developments that could give rise to attacks by groups or individuals not linked to the September 11 atrocities.

Aviation and Transportation Security Act

The September 11, 2001, attacks led Congress to enact the Aviation and Transportation Security Act (ATSA), Public Law 107-71, November 19, 2001. ATSA provides additional qualifications for screeners, including U.S. citizenship and increased training and testing of screeners.

Under ATSA, by November 19, 2002, the responsibility for inspecting persons and property carried by aircraft operators and foreign air carriers will be transferred to the Under Secretary of Transportation for Security, who heads a new agency created by that statute, the Transportation Security Administration (TSA).

ATSA requires TSA to make a number of improvements to aviation security. The improvements include that by November 19, 2002, screening of individuals and property in the United States be conducted by TSA employees and companies under contract with TSA. ATSA requires enhanced qualifications and training of individuals who perform screening functions. It requires that Federal law enforcement officers be present at screening locations.

Screening by TSA will make the certification of screening companies unnecessary. However, the screening company NPRM proposed enhanced screener qualifications and training, and enhanced aircraft operator and foreign air carrier oversight that remain relevant. First, until these duties are transferred, it is important to ensure that aircraft operators and foreign air carriers improve the qualifications, training, and testing of screeners in order to improve aviation security. Second, aircraft operators will continue to conduct some

screening at foreign locations, which must be done in accordance with enhanced standards.

Current Rulemaking

This rulemaking serves several purposes. It transfers to TSA rules the current FAA rules governing civil aviation security. Further, it includes certain improved standards, most notably for screener qualifications and training.

This rule does not include all of the improvements in security required under ATSA, but is an important step towards full compliance with that Act. It is intended to respond to the ATSA mandate for increased screener qualifications, by ensuring that aircraft operators and foreign air carriers improve the qualifications, training, and testing for newly hired screeners. It also makes related changes, in part as proposed in the screening company NPRM, and as required in ASIA 2000.

Beginning February 17, 2002, TSA will be assuming responsibility for screening that is currently the responsibility of aircraft operators. TSA will require the screening companies to comply with essentially the same enhanced screener qualifications and training that is applied to the aircraft operators and foreign air carriers in this rule. Until TSA takes over responsibility for all these screening duties, it is important that the aircraft operators improve the training and qualifications of screeners.

Most of the new screener qualification requirements come directly from ATSA. We intend by this action to make an immediate improvement in screening in response to the ongoing threat of terrorism to aviation security. At the same time we recognize the importance of an orderly transition as TSA assumes responsibility for contracting with screening companies, hiring screeners, and conducting screening. An inefficient transition would adversely affect security and would be costly and disruptive to the industry. As TSA begins to hire screeners, it will use a hiring process to select the most qualified personnel among all applicants. However, by acting now to ensure that hired screeners newly hired by aircraft operators and foreign air carriers meet many of the increased standards, a substantial number of better trained and qualified workers will be available by the time the ATSA requirements come into full effect. The standards imposed in this rule are thus an interim step, but we anticipate that many of the people hired during the transition period will also have the necessary ability and training for future

positions with TSA. These persons may subsequently be hired for those positions, although this is not assured.

This rulemaking does not address some measures required in ATSA to enhance screening, such as additional background checks for individuals with access to secured areas of airports. Those measures are under development now.

We emphasize that we are applying the new screener standards at this time only to employees hired as of February 17, 2002. Those individuals now performing screening functions on behalf of aircraft operators or foreign air carriers who may not be able to meet the requirements of ATSA once it comes into full effect may remain in their positions during the transition. In addition, those employees who are not currently eligible under ATSA may be able to take action during the transition period to improve their qualifications for future positions performing screening functions under TSA. For example, some people now performing screening functions may be eligible for U.S. citizenship, but have not yet taken the steps necessary to become U.S. citizens.

Overview of This Rulemaking

This rulemaking transfers the aviation security rules to title 49 of the Code of Federal Regulations. The Under Secretary of Transportation for Security is issuing these new rules.

The rules are largely unchanged from the FAA security rules, other than to change references from FAA to TSA. This rulemaking also incorporates some enhanced screener qualifications and training standards mandated by ATSA. These changes are discussed in this document in connection with the part of the rule affected.

These rules do not include all of the new security measures required in ATSA. In the future, TSA will adopt additional measures to improve controls to the access to secured areas of airports, additional checks of the backgrounds of individuals who have access to secured areas, and other measures required in ATSA.

14 CFR—FAA Regulations

Because security functions are transferring to TSA, many of the FAA rules are no longer needed. This rulemaking removes these parts.

Further, several references in the operations rules for air carriers and commercial operators are changed. Sections 121.538 and 135.125 are revised to require operators to comply with TSA security rules instead of FAA security rules. Similarly, where this

rulemaking removes security requirements in part 129, it adds a requirement that foreign air carriers comply with TSA security rules, the same as that for part 121.

49 CFR—TSA Regulations

This rulemaking establishes the basic organization for TSA rules. The rules will appear in title 49, Code of Federal Regulations, Chapter XII, which includes parts 1500 through 1699. Subchapter A will contain administrative and procedural rules. Subchapter B will contain rules that apply to many modes of transportation. Subchapter C will contain rules for civil aviation security.

Outline of TSA Regulations

Chapter XII—Transportation Security
Administration, Department of Transportation
Subchapter A—Administrative and Procedural Rules
Part 1500—Applicability, Terms and Abbreviations, and Rules of Construction
Part 1510—Passenger Civil Aviation Security Service Fees
Subchapter B—Security Rules for All Modes of Transportation
Part 1520—Protection of Sensitive Security Information
Subchapter C—Civil Aviation Security
Part 1540—Civil Aviation Security
Part 1542—Airport Security
Part 1544—Aircraft Operator Security: Air Carriers and Commercial Operators
Part 1546—Foreign Air Carrier Security
Part 1548—Indirect Air Carrier Security
Part 1550—Aircraft Operator Security Under General Operating and Flight Rules

49 CFR Part 1500—Applicability, Terms and Abbreviations

New part 1500 provides the applicability, and some terms and abbreviations, that apply to all TSA regulations. The definitions of “person” and “United States” are based on those in 49 U.S.C. 40102.

49 CFR Part 1520—Protection of Sensitive Security Information

New Part 1520 provides the rules for protecting sensitive security information. It is largely the same as 14 CFR part 191.

In general, Federal law and policy calls for release of information to the public, and TSA and DOT comply with these laws and policies. However, when release of information may compromise the safety or security of the traveling public, TSA and DOT protect that information from disclosure.

Information that could help someone determine how to defeat security systems is protected from public disclosure under part 1520. In § 1520.7, TSA has designated this information as SSI. SSI includes information about security programs, vulnerability assessments, technical specifications of certain screening equipment and objects used to test screening equipment, and other information. Under § 1520.3, TSA does not disclose such information. Under § 1520.5, aircraft operators, foreign air carriers, and others are required to protect SSI from disclosure. They may disclose SSI only to those with a need to know. For instance, aircraft operator and foreign air carrier security programs are protected from public disclosure under § 1520.7(a).

Section 1520.1 includes the applicability and definitions. Section 1520.1(c) provides that the authority of the Under Secretary under this part may be further delegated.

Section 101(e) of ATSA amended 49 U.S.C. 40119(b) by making it applicable to information obtained or developed in carrying out security in all modes of transportation. Although the Under Secretary is given overall responsibility for carrying out section 40119(b), the heads of the operating administrations in the Department of Transportation have day-to-day responsibility for matters in their own modes of transportation. Hence, it is most efficient for these other administrations to exercise authority to protect SSI in their modes. Accordingly, § 1520(d) provides that the Under Secretary’s authority under this part is also exercised, in consultation with the Under Secretary, by the Commandant of the United States Coast Guard, as to matters affecting and information held by the Coast Guard, and the Administrator of each DOT administration, as to matters affecting and information held by that administration, and any other individual formally designated to act in their capacity. The Under Secretary will be responsible for determining what information is SSI (see § 1520.7) and what persons are required to protect it under this part (see § 1520.5).

Section 1520.3 covers records and information withheld by the Transportation Security Administration. Section 1520.3(b)(3) is changed to reflect the change ATSA made to section 40119. TSA may protect information the release of which that would be detrimental to the safety of persons in transportation, not just air transportation.

Section 1520.5 covers records and information protected by others.

Paragraph (a) identifies what persons are responsible for protecting SSI. For the most part, they are the same persons covered in current § 191.5. However, § 1520.5(a)(8) covers each person for which a vulnerability assessment has been authorized, approved, or funded by DOT, irrespective of mode of transportation. These assessments may identify ways in which the port or other facility could be vulnerable to attack, and may suggest corrective action. If this information were to fall into the wrong hands it could be used to attack the transportation system. Accordingly, the persons receiving these vulnerability assessments now are responsible under this rule to protect them from unauthorized disclosure. The vulnerability assessments themselves are added to the list of information that is determined to be SSI in § 1520.7(r).

In the course of applying for and qualifying for an air carrier certificate or operating certificate under 14 CFR part 119, an applicant that will be subject to part 1544 receives a copy of the standard security program. To ensure that applicants for certificates are required to protect SSI, we are adding § 1520.5(e). Paragraph (e) provides that references in part 1520 to an aircraft operator, airport operator, indirect air carrier, or foreign air carrier, include applicants. Thus, an applicant must restrict disclosure of the security program information that it receives. The same is true of an applicant for any other security program, such as a foreign air carrier security program.

When an individual receives SSI during training for a position with an airport operator, aircraft operator, indirect air carrier, or foreign air carrier, he or she is subject to part 1520. Section 1520.5(f) clarifies that he or she may not disclose this information.

Section 1520.7 describes SSI. Section 1520.7 defines what information and records are SSI and therefore are subject to the protections in §§ 1520.3 and 1520.5.

Section 191.7(a) covers any approved or standard security program for an airport operator, aircraft operator, foreign air carrier, or indirect air carrier. However, the agency has recently adopted other security programs, including those covering screening to be conducted by TSA, and those covering certain general aviation operations. Accordingly, § 1520.7(a) covers any approved, accepted, or standard security program under the rules listed in § 1520.5(a) (1) through (6).

Section 1520.7(m) provides that the locations at which particular screening methods or equipment are used, and the carriers that are authorized to use those

methods and equipment, are SSI. This information is SSI only if TSA has determined that, as to those particular screening methods or equipment, the criteria of 49 U.S.C. 40119 are met. In some cases, the exact screening methods used at different locations are not publicly released, particularly methods used for checked baggage and cargo. This may occur, for instance, when new technology is deployed. It may take time to deploy it widely, and we may determine that there is a significant security benefit to not letting any unauthorized person know where it may be used. This could affect a person's perception as to whether the introduction of a threat item was more likely to be detected, and might lead a person to attempt to target a location that the person assumes is less secure.

New paragraph (n) is added to cover the screener tests that screeners must complete under this rulemaking. These tests contain information that is in the security programs and must be protected in the same way.

New paragraph (o) protects the scores of screener tests administered under the rules listed in § 1520.5(a) (1) through (6). These scores could be used to determine which screening locations have screeners with better or worse scores, which might be viewed as a means to defeat the screening system. Therefore, while the scores will be used by TSA to identify weaknesses, they may not be disclosed.

New paragraph (p) covers performance data from screening systems, and from testing of screening systems. This includes information from threat image projection systems (TIP) and from other tests and data collections. The performance data is protected to prevent unauthorized persons from attempting to determine which screening locations or companies may be less successful at detecting weapons, explosives, and incendiaries. Performance data might also be used to determine which threat items are more difficult to detect.

Paragraph (q) covers threat images and descriptions of threat images for threat image projection systems. The threat images and descriptions would inform unauthorized persons as to what threat items screeners have been exposed to. This information might be used in attempting to defeat screening and must be protected.

As noted above, paragraph (r) covers information in a vulnerability assessment that has been authorized, approved, or funded by DOT, irrespective of mode of transportation. Note that as TSA continues to consider the security needs of all the modes of

transportation in the current environment, we expect to identify other information that must be protected under this part in order to support transportation security. We may issue a notice of proposed rulemaking in the future to propose further changes. In that event, we may respond in that notice of proposed rulemaking to any comments to this final rule regarding this part.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 191	New section 49 CFR part 1520
191.1	1520.1
191.3	1520.3
191.5	1520.5
191.7	1520.7

49 CFR Part 1540—Civil Aviation Security: General Rules

New part 1540 provides rules that cover all segments of civil aviation security. It also includes rules that govern individuals and other persons. Most of the rules in part 1540 are transferred from 14 CFR parts 107, 108, and 129.

Delegations

Section 1540.3 contains delegations of authority. The law vests the authority of TSA in the Under Secretary of Transportation for Security. See 49 U.S.C. 114. Where the Civil Aviation Security rules in subchapter C name the Under Secretary as exercising authority over a function, the Under Secretary or the Deputy Under Secretary exercise the authority. Any individual formally designated to act as the Under Secretary or the Deputy Under Secretary may also exercise the authority.

For the most part these rules simply refer to TSA as exercising authority. Where rules in this subchapter name TSA as exercising authority over a function, in addition to the Under Secretary, a designated official within TSA exercises the authority.

Terms Used in This Subchapter

Section 1540.5 contains definitions and descriptions for many of the terms used in this subchapter. Most terms are from FAA regulations, including 14 CFR parts 1, 107, and 108. Some are definitions in the statute governing TSA, 49 U.S.C. 40102. Others are discussed below.

"Aircraft operator" is used in part 108 to identify the air carriers and

commercial operators that are subject to part 108. When this term was adopted the agency did not impose security regulations on aircraft operators other than air carriers or commercial operators. Recently, however, it has become necessary to require security measures for other aircraft operators, as discussed below under part 1550.

The term "aircraft operator" in § 1540.5 means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), (1) for the purpose of air navigation including the piloting of aircraft, or (2) on any part of the surface of an airport. This definition is based on the definition of "operate aircraft" in 49 U.S.C. 40102(32) and "operate" in 14 CFR part 1. The definition also states that in specific parts or sections, "aircraft operator" is used to refer to specific types of aircraft operators. For instance, new part 1544 uses "aircraft operator" to refer to those air carriers and commercial operators subject to that part.

"Indirect air carrier" is defined as any person or entity within the United States not in possession of an FAA air carrier operating certificate, that undertakes to engage indirectly in air transportation of property, and uses for all or any part of such transportation the services of a passenger air carrier. This does not include the United States Postal Service (USPS) or its representative while acting on the behalf of the USPS. This definition is in the aircraft operator standard security program and in the indirect air carrier standard security program.

"Person" is defined to include various entities and government authorities, as well as individuals, as it is in 49 U.S.C. 40102 and 14 CFR part 1.

"Screening function" is defined as the inspection of individuals and property for explosives, incendiaries, and weapons.

"Screening location" means each site at which individuals or property are inspected for the presence of any explosive, incendiary, or weapon. The checkpoint where passengers and their property are inspected with metal detectors, X-ray machines, and other methods is a screening location. So are the locations in the baggage make-up areas where checked baggage is inspected with an explosive detection system, and those locations where cargo is inspected.

There are some other wording changes in these rules worthy of note. FAA security rules often refer to "deadly or dangerous weapons." However, all weapons are potentially

deadly or dangerous, so the excess words were removed and these TSA rules refer simply to "weapons."

FAA rules often refer to "security systems, measures, or procedures" or other listing. However, the term "measures" encompasses all these terms. These TSA rules, therefore, often refer simply to "security measures," which may include any systems, procedures, equipment, and other measures that accomplish the security goal.

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

This subpart contains rules that apply to many persons, including airport operators, airport tenants, aircraft operators, foreign air carriers, and indirect air carriers, as well as employees of such entities, passengers, individuals at airports, and other individuals. This subpart includes rules that apply to all entities governed by subchapter C, and includes most of the security rules that apply to individuals rather than entities.

Section 1540.103 transfers the falsification rules that were in 14 CFR 107.9 and 108.7. The section applies to the whole subchapter. Criminal statutes, such as 18 U.S.C. 1001, prohibit intentional falsification and fraud. This section provides a civil remedy for similar conduct. See Amendment Nos. 107-9 and 108-4, Falsification of Security Records (61 FR 64242, Dec. 3, 1996) in which these rules were first adopted.

Section 1540.105 transfers §§ 107.11 and 108.9, regarding the security responsibilities of employees and other persons.

Section 1540.107 transfers § 108.201(c), which requires individuals who enter a sterile area to submit to screening. Transferring the section to part 1540 makes more clear that the rule applies to individuals entering a sterile area where screening is conducted by TSA, an aircraft operator, or a foreign air carrier.

Section 1540.109 is a new requirement prohibiting any person from interfering with, assaulting, threatening, or intimidating screening personnel in the performance of their screening duties. This section was proposed in the January 2000 screening company NPRM and received no negative comments. The rule prohibits interference that might distract or inhibit a screener from effectively performing his or her duties. This rule is necessary to emphasize the importance to safety and security of protecting screeners from undue

distractions or attempts to intimidate. Previous instances of such distractions have included verbal abuse of screeners by passengers and certain air carrier employees.

A screener encountering such a situation must turn away from his or her normal duties to deal with the disruptive individual, which may affect the screening of other individuals. The disruptive individual may be attempting to discourage the screener from being as thorough as required. The screener may also need to summon a checkpoint screening supervisor and law enforcement officer, taking them away from other duties. Checkpoint disruptions potentially can be dangerous in these situations. This rule supports screeners' efforts to be thorough and helps prevent individuals from unduly interfering with the screening process. This rule is similar to 14 CFR 91.11, which prohibits interference with crewmembers aboard aircraft, and which also is essential to passenger safety and security.

This rule does not prevent good-faith questions from individuals seeking to understand the screening of their persons or their property. But abusive, distracting behavior, and attempts to prevent screeners from performing required screening, are subject to civil penalties under this rule.

This section applies to individuals interfering with screeners under subchapter C. Thus, if an individual interferes with a screener employed by a foreign air carrier, the individual violates § 1540.109.

This section applies to persons, not just individuals. Thus, a company or other entity could be found in violation of this section.

Note that if an individual is interfering with screening in violation of this rule, that individual potentially is also in violation of State or local laws, such as those relating to disturbing the peace. This rule does not preempt such State and local laws. Law enforcement personnel at the scene will determine whether to take action under State or local laws. TSA will also determine whether TSA civil penalty action is warranted for violation of § 1540.109.

Title 49, United States Code, 46503, was added in ATSA to provide a criminal penalty for interfering with security personnel. Section 1540.109 permits TSA to seek a civil penalty for actions that may not warrant criminal prosecution under section 46503 but do warrant legal enforcement action.

Section 1540.101 regarding the carriage of weapons, explosives, and incendiaries by individuals, is

transferred from §§ 108.201(e) and (f), 108.203(e), and 129.27(a) and (b).

Section 1540.113 requires that each individual who holds an airman certificate, medical certificate, authorization, or license issued by the FAA must present it for inspection upon a request from TSA. As the need to ensure aviation security increases, it becomes important for TSA to be able to identify individuals who have access to aircraft, such as pilots and mechanics. This rule makes clear that TSA can require an airman to show his or her FAA certificate when requested. This rule is especially important for use with general aviation airmen who are not employed by air carriers, because they do not have identification media issued by air carriers or aircraft operators under Parts 1542 or 1544. For instance, TSA may need to make such a request in connection with §§ 1550.5 or 1550.7 security procedures. This section is similar to a number of sections in the FAA regulations, such as 14 CFR 61.3(l), 65.51(b), 65.89, and 65.105.

49 CFR Part 1542—Airport Security

New part 1542 provides the rules for airport operators. It is largely the same as 14 CFR part 107 (66 FR 37274, July 17, 2001) and § 107.209, Criminal history records checks, as amended (66 FR 63474, December 6, 2001). Some of the sections from part 107 were moved to part 1540 rather than part 1542 and are discussed in that portion of this document.

Law Enforcement Support

This part continues to state that the airport operator must provide law enforcement personnel to support its security program and to support each system for screening persons and accessible property required under parts 1544 or 1546. This screening includes the inspection of individuals and property, as well as other security measures such as those that take place at the ticket counter, such as Computer Assisted Passenger Prescreening System (CAPPS). TSA will be assuming responsibility for law enforcement presence for the inspection of individuals and property as necessary. When TSA assumes this duty at the airport, the airport will no longer need to perform this function on a routine basis. However, the airport operator will continue to provide a law enforcement presence and capability that is adequate to ensure the safety of passengers in accordance with 49 U.S.C. 44903(c), including covering screening before TSA law enforcement assumes this duty. Airport law enforcement will also be expected to back up TSA law

enforcement officers at screening locations should the need arise. TSA will work closely with law enforcement agencies at each airport to ensure that all agencies cooperate in providing for the safe and secure operation of the airport.

The recordkeeping requirements are changed to reflect TSA's participation in law enforcement support of airport security. Section 1542.221(b) requires that certain data be maintained, except as authorized by TSA. This includes data regarding weapons detected during passenger screening and information on arrests. To the extent that TSA is performing these functions or gathering this data, the airport operator will not have to.

Criminal History Records Checks (CHRC)

The current rule provides that the airport operator *may* exempt from the

requirement to undergo a CHRC individuals in four categories. See § 107.209(m)(1) through (4). Section 138 of ATSA, however, provides in part that a CHRC "shall not be required under this subsection for an individual who is exempted under section 107.31(m)(1) or (2) * * *". Section 107.31 was renumbered § 107.209. See 66 FR 37274, July 17, 2001.

Accordingly, in § 1542.209(m), what formerly was (m)(1) and (2) are renumbered to be paragraph (m)(1)(i) and (ii), and are revised to state that the airport operator must authorize the subject individuals to have unescorted access authority. These individuals include an employee of the Federal, state, or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation that includes a criminal

records check; and a crewmember of a foreign air carrier covered by an alternate security arrangement in the foreign air carrier's approved security program.

The other exemptions, formerly in (m)(3) and (4), are clarified. The airport operator may exempt certain individuals who have been continuously employed by another airport operator, airport user, or aircraft operator. In response to questions we have received, this section now states that the exemption does apply to contract employees of these entities, not only direct employees.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 107	New section 49 CFR part 1542/1540
107.1	1542.1
107.3	1540.5
107.5	1542.3
107.7	1542.5
107.9 and 108.7	1540.103
107.11 and 108.9	1540.105
Subpart B (§§ 107.101–107.113)	Subpart B (§§ 1542.101–1542.113)
Subpart C (§§ 107.201–107.221)	Subpart C (§§ 1542.201–1542.221)
Subpart D (§§ 107.301–107.307)	Subpart D (§§ 1542.301–1542.307)

49 CFR Part 1544—Aircraft Operator Security

New part 1544 provides the rules for aircraft operators. It is largely the same as 14 CFR part 108 (66 FR 37330, July 17, 2001) and § 108.229, Criminal history records checks, as amended (66 FR 63474, December 6, 2001). Some of the sections from part 108 were moved to part 1500 and are discussed in that portion of this document. The other significant changes are discussed below.

Screening

Although TSA is taking over responsibility for most inspections of individuals and property in the United States, aircraft operators will continue to do some inspections, such as at foreign airports where the host government does not screen. Accordingly, this rule continues to include measures for aircraft operators to carry out when they inspect individuals or property for weapons, explosives, and incendiaries.

Section 1544.201(a) continues the requirement that the aircraft operator use the measures in its security program

to prevent or deter the carriage of any explosive, incendiary, or weapon on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area. There are a number of measures used to carry out this requirement, including use of the CAPPS, inspecting the individual and their accessible property, and other measures. Aircraft operators are also required to ensure that passengers and their accessible property are inspected for weapons, explosives, and incendiaries. The means of accomplishing these inspections are described in § 1544.207, discussed below.

Note that § 1544.201(e) continues the requirement that the aircraft operator not permit persons to have unauthorized explosives, incendiaries, or weapons when on board an aircraft. Although TSA will conduct most inspections, if the aircraft operator becomes aware that a person has an unauthorized weapon, the aircraft operator must not permit that weapon on board.

Sections 1544.203 and 1544.205 continue the requirements that each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage and cargo. Section 1544.203(c) requires screening of all checked baggage, in compliance with section 110 of ATSA.

Section 1544.207 addresses the inspection of individuals, accessible property, checked baggage, and cargo. At locations within the United States at which TSA conducts such inspections, the aircraft operator's responsibility will be to ensure that passengers and property are inspected by TSA. The aircraft operator must follow procedures used at that airport to do so. For instance, the aircraft operator may not allow passengers to bypass inspection by bringing them to an aircraft from the ramp side, unless special arrangements are made to inspect the passengers.

Section 1544.207(c) provides that at locations where TSA or the host government is not conducting the

inspections, the aircraft operator will continue to be responsible for conducting the inspections. For instance, at most foreign airports aircraft operators are responsible for inspecting checked baggage. At such locations the aircraft operators must conduct the inspections in accordance with this part and their security program.

Section 1544.207(d) provides that at locations outside the United States at which the foreign government conducts inspections, the aircraft operator must ensure that the individuals and property have been inspected by the foreign government. The host government may inspect using government employees or using contractors hired by the government. In either case the aircraft operator must follow the procedures at that airport to ensure that the inspections are conducted before boarding the passengers and property.

Criminal History Records Checks (CHRC)

Section 1544.229 covers fingerprint-based criminal history records checks (CHRCs). This section requires all individuals who have unescorted access to the SIDA, and all individuals with authority to perform screening functions for passengers and accessible property, to undergo a CHRC. See 66 FR 63474 (December 6, 2001).

This section currently only covers screening functions for passengers and accessible property because, until ATSA, the statute providing authority for these checks only covered such functions. Further, it appears that almost all individuals who screen checked baggage and cargo are covered under the current rule, because they also screen passengers and accessible property, or because they have unescorted access to the SIDA where they handle checked baggage and cargo.

ATSA amended the statute as to CHRCs so that it also covers screening of checked baggage and cargo. See ATSA sections 110 and 49 U.S.C. 44901(a) and 44936. In addition, ATSA emphasizes the need to enhance security for checked baggage and cargo, and to expand the use of background checks. See ATSA section 110 and 136. TSA has determined, therefore, that we must ensure that all screeners of checked baggage and cargo have undergone a CHRC. This rule applies to new screeners as of February 17, 2002, and allows the aircraft operators until December 6, 2002, to conduct the CHRCs on current screeners. This is essentially the same as the December 2001 amendment to this section.

Further, this section requires that individuals who accept checked baggage

for transport on behalf of the aircraft operator must undergo a CHRC. This includes ticket agents, sky caps, individuals at remote check-in sites at hotels, and others. Most such individuals currently have unescorted access to the SIDA and therefore are subject to the current rule. There are some, however, that are not currently subject to § 1544.229.

Individuals who accept checked baggage exercise important security functions, which may include such functions as identifying those items that require extra security, and guarding the baggage from tampering. It is important that such individuals can be relied on. Accordingly, this rule ensures that all such individuals will undergo a CHRC.

Note that this section does not cover individuals who accept cargo for transport (except for those who also screen cargo). Many such individual have unescorted access to the SIDA and therefore are subject to the rule. As to the others, TSA is now closely examining the cargo industry and determining what additional security measures may be advisable. We will provide for additional security measures in the future.

Paragraph (g) covers determining the arrest status of an individual when the CHRC results show an arrest for a disqualifying criminal offense but do not show the disposition of that offense. This paragraph states that the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before the individual may serve in the covered position. This has been interpreted by some people to mean that there must be a disposition in order for the individual to serve. This was not intended. For instance, if the court is holding the case in abeyance, and there is no conviction or finding of not guilty by reason of insanity, the individual is not disqualified. This section is amended to better explain this meaning. Note that if the individual is later convicted he or she must report the conviction under paragraph (l). The same change is made to § 1542.209(g) for airport operators.

The requirements for screener qualifications and testing are now in subpart E, discussed below.

Screener Qualifications

Subpart E contains the qualifications and training standards for screeners. Current screeners will continue under the current standard (14 CFR 108.213 in the current rule, 49 CFR 1544.403 in this new rule) until November 19, 2002, when all screeners must meet the new standards. TSA is developing new training that it will provide to aircraft

operators and foreign air carriers, and will order them to begin using on a specified date. The new standards will apply to those who first serve as screeners on and after that date.

Sections 1544.405 through 1544.411 cover the new screeners, who first serve as screeners on and after February 17, 2002. Most of the new standards come from ATSA. These provisions are essentially the same as those that TSA will use for screeners that it hires as employees to screen in the majority of airports. This rule will ensure that all screeners meet the same enhanced standards required under ATSA.

Section 1544.405, regarding the qualifications of screening personnel, incorporates the basic qualifications for screeners now in § 108.213, and additions from ATSA. Screeners must be U.S. citizens and have a high school diploma or a General Equivalency Diploma (GED). As authorized by ATSA, TSA may determine that the individual's education and experience are sufficient instead of the high school diploma or GED. Screeners must also have a satisfactory or better score on a screener selection test provided by TSA.

Section 1544.405 also sets out that those seeking to be screeners must have the fundamental physical and mental aptitude necessary to perform the job. These include the statutory requirements for adequate color perception, motor skills and related physical abilities in accordance with their assignment, and the ability to read, write, and speak in English.

Section 1544.407 covers the training, testing, and knowledge of individuals who perform screening functions. For those locations where the hiring and training of screeners remain an aircraft operator responsibility, the aircraft operator or foreign air carrier will be responsible to meet specific training and testing standards. Except as part of on-the-job training, no one may perform screening functions without having completed the required initial, recurrent, and specialized training, and no aircraft operator may use screeners who are not properly trained.

More specifically, for screeners who first serve on or after February 17, 2002, this section provides that training must be conducted using training programs that have been made available by TSA. Current standards allow for as little as 12 hours of classroom instruction; as required by statute, newly hired trainees must complete 40 hours of classroom training. The required training program will be made available through the aircraft operator's or foreign air carrier's Principal Security Inspector. The

material in the training program will take 40 hours to cover adequately.

Following classroom instruction, but before moving on to the on-the-job portion of the training, a trainee must pass the screener readiness test. On-the-job training must be for at least 60 hours, in accordance with ATSA. Although a trainee will be performing screening functions during on-the-job training, he or she must be closely supervised. Further testing is required after completion of on-the-job training before the screener is allowed to make independent judgments as a screener.

Under § 1544.407(g), aircraft operators are prohibited from allowing trainees to have access to sensitive security information (SSI) until the criminal history records check (required by § 1544.229) is successfully completed. As discussed in the changes to part 1520, certain information related to civil aviation security must be protected from unauthorized disclosure because it could be used to attempt to defeat the security system if it falls into the wrong hands.

Before allowing an individual to screen passengers and property that will be carried in the cabin of an aircraft, the aircraft operator must conduct a criminal history records check and verify that the individual does not have a disqualifying criminal offense. These requirements are set out at § 1544.229. Under this rule, that check must be completed before giving SSI to a trainee. Criminal history records checks are also required for individuals with unescorted access to security identification display areas (SIDA). They are conducted by either the airport operator or aircraft operator. See 49 U.S.C. 44936 and § 1544.229. See also Criminal History Records Checks, 66 FR 63474, Dec. 6, 2001.

Section 1544.409 covers the integrity of screener tests. Paragraph (a) makes it a violation to cheat or facilitate cheating on any screener test, such as by unauthorized copying, or giving or receiving improper assistance on the test. This section was proposed in the screening company NPRM and no commenters objected. This section emphasizes that cheating is not permitted on any training test administered to or taken by screening personnel, to include test monitors, screeners, screeners in charge, and checkpoint security supervisors. These requirements are similar to the testing regulations for pilots in 14 CFR 61.37.

Certain of the requirements apply "except as authorized," to provide for the possibility that in the future, TSA would authorize such conduct as the use of certain outside materials. For

instance, in pilot exams, the applicants may bring flight computers to perform required calculations.

In addition, § 1544.409(b) governs administering and monitoring screener readiness tests. Whenever a screener readiness test is to be performed, the aircraft operator must notify the agency. If a government official is not available at the time the test is being conducted, the test must be administered and monitored by a direct employee of the aircraft operator. Screening companies will not be permitted to monitor their own screener readiness tests. The monitor must not be a screener or supervisor, but must understand the nature of the test and be able to detect cheating. This does not require knowledge of the subject matter in which the screener is tested. For instance, the monitor must know what, if any, outside materials the screener is allowed to use and be able to observe whether the screener is using unauthorized materials. The monitor will be expected to call up the test on the computer for the trainee, to submit the computerized test for grading, and to make a record of the grade, such as by printing out the result.

We recognize that at some airports the aircraft operator may not have an employee who can perform this task. The rule provides that TSA may authorize an aircraft operator or foreign air carrier to use as a test monitor a person who is neither a direct employee nor a government employee. This ensures independence on the part of the person who is monitoring the test. For instance, an aircraft operator or foreign air carrier may have difficulty at small airports at which it has few flights. Such airports often have a pilot school or fixed base operator at which an FAA-designated examiner administers and monitors written pilot tests. Designated examiners are very familiar with monitoring tests to prevent cheating. An aircraft operator or foreign air carrier could consider arranging for the designated examiner to monitor the screener training tests.

If multiple aircraft operators or foreign air carriers contract with one screening company, TSA will authorize one of them to monitor the screener tests, or the responsibility may be rotated among them.

We are not requiring that the on-the-job training tests be monitored because of the logistical difficulties involved with screeners completing their 60 hours of on-the-job training at varied times.

Section 1544.411 covers the continuing qualifications for screening personnel. ATSA states that a screener

must be fit for duty on a daily basis, unimpaired by illegal drugs, sleep deprivation, medication, or alcohol. Paragraph (a) of this section includes these requirements, but also makes it clear that they are intended as examples of potential causes of impairment rather than an exclusive list. We believe that fitness for duty is an absolute requirement for proper execution of a screener's responsibilities, and on-duty impairment is unacceptable, irrespective of the cause.

Under § 1544.411(b), aircraft operators are prohibited from allowing screeners who have not completed training, including on-the-job training, to exercise independent judgment about permitting individuals or property to pass into the sterile area of an airport or aboard an aircraft.

Under paragraph (c), whenever a screener fails a TSA operational test, he or she must undergo remedial training before being permitted to resume screening duties.

An annual proficiency review is required in paragraph (d). To ensure that a screener's skills are maintained over time, the aircraft operator's Ground Security Coordinator must conduct an annual evaluation of each person performing screening functions. This is the same requirement as set forth in § 108.213(d). This proficiency review must satisfactorily demonstrate that the screener continues to meet all qualification requirements, has performed satisfactorily, and demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

Signs for X-ray Systems

The current rules require aircraft operators to post signs if they use X-ray technology, including explosive detection systems. See §§ 108.209(e) and 108.211(b). The signs alert people that items are inspected by X-rays and warn them to remove X-ray, scientific, and high-speed film from their accessible property and checked baggage.

This rule includes these sign requirements when the aircraft operator conducts screening using X-ray technology. If TSA is screening accessible property, however, the aircraft operator is not responsible for the signs. TSA will control the screening checkpoint and will post all necessary signs. This rule requires aircraft operators to post signs where checked baggage is accepted if either TSA or the aircraft operator screens checked baggage using X-ray technology. See §§ 1544.209(e) and 1544.211(b). The aircraft operators

continue to have control over locations where checked baggage is accepted and must post the signs to provide necessary information to the passengers. These signs are already posted in most places where they are needed. The aircraft operators will simply need to keep them posted.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 108	New section 49 CFR part 1544/1540
108.1	1544.1
108.3	1540.5
108.5	1544.3
108.7 and 107.9	1540.103
108.9 and 107.11	1540.105
Subpart B (§§ 108.101– 108.105).	Subpart B (§§ 1544.101– 1544.105)
108.201(c)	1540.107
108.201(e) and (f)	1540.101
108.203 (e)	1540.101
108.205	1544.205
108.207	1544.209
108.209	1544.211
108.211	1544.213
108.213	1544.403
Subpart C (§§ 108.215– 108.235).	Subpart C (§§ 1544.215– 1544.235)
Subpart D (§§ 108.301– 108.305).	Subpart D (§§ 1544.301– 1544.305)

49 CFR Part 1546—Foreign Air Carrier Security

New part 1546 provides the rules for foreign air carriers that operate within the United States. It largely contains the same requirements as the security sections in 14 CFR part 129, including §§ 129.25, 129.26, 129.27, and 129.31. However, it has been reorganized for ease of use, and certain requirements are updated, such as the procedure for adopting and amending a security program. Further, several additional measures are amended or added, including signs for X-ray machines in § 1546.209, and screener qualifications and training in subpart E is added, reading essentially the same and for the same reasons as in part 1544.

Section 1546.209 (current § 129.26) covers the use of X-ray systems. The industry standard for X-ray systems is updated for foreign air carriers in § 1546.209(g), consistent with the requirement for aircraft operators in § 1544.209(g). The ASTM standard has been amended to provide an updated operational test procedure. Foreign air carriers currently are carrying out this

procedure. This rule incorporates the new ASTM standard.

The following chart cross-references applicable sections of the regulations for foreign air carrier security that were moved from 14 CFR to 49 CFR:

DISTRIBUTION TABLE

Current section/ part 14 CFR part 129	New section/part 49 CFR part 1546/1540/ 1510
129.25(a)	1510.3
129.25(b)	1546.101
129.25(b)(1)	1546.101(a)
129.25(b)(2)	1546.101(b)
129.25(b)(3)	1546.101(c)
129.25(b)(4)	1546.101(d)
129.25(c)	1546.103(b)
129.25(d)	1546.103(c)
129.25(e)	1546.103(a)(1)
129.25(e)(1)	1546.103(a)(2)
129.25(e)	1546.105
129.25(f)	1546.301
129.25(g)	1546.201(c)
129.25(h)	1546.209(a)
129.25(i)	1546.209(b)
129.25(j)	1546.201(a), (b)
129.26	1546.207
129.27(a)	1546.201(d) and 1540.101
129.27(b)	1546.203(c) and 1540.101
129.31	1546.103(d)

49 CFR Part 1548—Indirect Air Carrier Security

New part 1548 provides the rules for indirect air carriers. It is largely the same as 14 CFR part 109. However, it has been reorganized for readability and to update certain requirements, such as the procedure for adopting and amending a security program.

In the screening company NPRM the FAA proposed to add a section on the FAA's inspection authority. No comments were received. Section 1548.3 contains TSA's inspection authority for indirect air carriers, which is the same as for aircraft operators under part 1544 and others under this subchapter.

Section 1548.5 and 1548.7 contain the requirements for security programs. These sections were proposed (in slightly different formats) in the January 2000 screening company NPRM and received no negative comments. Section 1548.5, Adoption and implementation, redesignates current § 109.3 as § 1548.5 and reorganizes it to be similar to § 1544.103. Section 1548.5 is largely the same as current § 109.3. New paragraph 1548.5(d)(2) makes clear that the security program at each office where cargo is accepted may be an electronic version.

Section 1548.7 restates and clarifies § 109.5 and makes it consistent with § 1544.105.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 109	New section 49 CFR part 1548
109.1	1548.1
109.3	1548.5
109.5	1548.7

49 CFR Part 1550—Aircraft Security Under General Operating and Flight Rules

This part includes security requirements for aircraft operations other than those governed by other parts in this subchapter. It covers air carrier operations that are not covered by part 1544, such as corporate and private aircraft, and other operations. Part 1550 now provides the rules for aircraft operators covered under SFAR 91 (66 FR 50531, Oct. 4, 2001). It contains the same requirements as those in the SFAR, but is reorganized.

In addition, § 1550.3 describes TSA's inspection authority for aircraft operators under this part. It is largely the same as for aircraft operators under part 1544 and others under this subchapter, except that it does not include references to access to the SIDA, because they are not relevant in this part.

Section 1550.5 is essentially the same as SFAR 91 paragraph 1(a).

Section 1550.7 is essentially the same as SFAR 91 paragraph 1(b), except that the size of aircraft covered is expanded. SFAR 91 covers aircraft with a maximum certificated takeoff weight of more than 12,500 pounds. However, in ATSA Congress has provided that the agency must require increased security for aircraft of 12,500 pounds or more. See ATSA sections 113 and 132(a). Accordingly, § 1550.7 provides that TSA may require additional measures for operators of aircraft 12,500 pounds or more maximum certificated takeoff weight when TSA determines that a threat exists.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section SFAR No. 91 in 14 CFR part 91	New section 49 CFR part 1550
1(a)	1550.5

DISTRIBUTION TABLE—Continued

Current section SFAR No. 91 in 14 CFR part 91	New section 49 CFR part 1550
1(b)	1550.7
2	§§ 1550.5 and 1550.7
3	§§ 1550.5 and 1550.7
4	§§ 1550.5 and 1550.7
5	1550.1

Good Cause for Immediate Adoption

This action mostly is an administrative action moving rules from one title to another in the Code of Federal Regulations. In addition, ATSA imposes a statutory mandate for TSA to improve screener qualifications and training, checked baggage security, and cargo security. This action is necessary to prevent a possible imminent hazard to aircraft and persons and property within the United States. Because the circumstances described herein warrant immediate action, the Under Secretary finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do without incurring expense or delay. We may further amend this rule in light of the comments we receive.

Paperwork Reduction Act

This final rule contains information collection requirements that were previously approved for parts 107 (2120–0075, 2120–0554, 2120–0628), 108 (2120–0098, 2120–0554, 2120–0577, 2120–0628, 2120–0642), 109 (2120–0505), and 129 (2120–0638), in accordance with the Paperwork Reduction Act (44 U.S.C. Section 3507(d)). TSA is submitting to the Office of Management and Budget a supplemental justification requesting that these approvals be transferred from the FAA to TSA.

Economic Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic

impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, the Regulatory Flexibility Act does not apply. TSA recognizes that this rule may impose significant costs on aircraft operators and foreign air carriers. An assessment will be conducted in the future. In any event, the current security threat requires that operators take necessary measures to ensure the safety and security of their operations. This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 13132, Federalism

The TSA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA and TSA have assessed the potential effect of this final rule and have determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.”

The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when rulemaking actions are taken without the issuance of a notice of proposed rulemaking. Therefore, the FAA and TSA have not prepared a statement under the Act.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT** for information. You can get further information regarding SBREFA on the Small Business Administration's Web page at http://www.sba.gov/advo/laws/law_lib.html.

List of Subjects**14 CFR Part 91**

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

14 CFR Part 107

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 108

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 109

Air carriers, Aircraft, Freight forwarders, Security measures.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety, Security measures.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

14 CFR Part 139

Air carriers, Airports, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 191

Air transportation, Security measures.

49 CFR Part 1500

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1510

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1520

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1540

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1542

Air carriers, Aircraft, Aviation safety, Security measures.

49 CFR Part 1544

Air carriers, Aircraft, Aviation safety, Freight forwarders, Incorporation by reference, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1546

Aircraft, Aviation safety, Foreign air carriers, Incorporation by reference, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1548

Air transportation, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1550

Aircraft, Security measures.

Federal Aviation Administration**14 CFR Chapter I****Authority and Issuance**

For the reasons stated in the preamble and under the authority of 49 U.S.C. 40102, the Federal Aviation Administration amends 14 CFR chapter I 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), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

Special Federal Aviation Regulation No. 91—[REMOVED]

2. Remove SFAR No. 91 from 14 CFR part 91.

PART 107—[REMOVED]

3. Remove 14 CFR part 107.

PART 108—[REMOVED]

4. Remove 14 CFR part 108.

PART 109—[REMOVED]

5. Remove 14 CFR part 109.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

6. Revise the authority citation for part 121 to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.

7. Revise § 121.538 to read as follows:

§ 121.538 Aircraft security.

Certificate holders conducting operations under this part must comply with the applicable security requirements in 49 CFR chapter XII.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

8. Revise the authority citation for part 129 to read as follows:

Authority: 49 U.S.C. 106(g), 40104–40105, 40113, 40119, 41706, 44701–44702, 44712, 44716–44717, 44722.

9. Revise § 129.25 to read as follows:

§ 129.25 Airplane security.

Foreign air carriers conducting operations under this part must comply with the applicable security requirements in 49 CFR chapter XII.

§§ 129.26, 129.27, and 129.31 [REMOVED]

10. Remove §§ 129.26, 129.27, and 129.31.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

11. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44101, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

12. Revise § 135.125 to read as follows:

§ 135.125 Aircraft security.

Certificate holders conducting operators conducting operations under this part must comply with the applicable security requirements in 49 CFR chapter XII.

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CERTAIN AIR CARRIERS

13. The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. 106 (g), 40113, 44701–44706, 44709, 44719.

14. Section 139.325(h) is revised to read as follows:

§ 139.325 Airport emergency plan.

* * * * *

(h) Each airport subject to 49 CFR part 1542, Airport Security, shall ensure that instructions for response to paragraphs (b)(2) and (b)(6) of this section in the airport emergency plan are consistent with its approved security program.

* * * * *

PART 191—[REMOVED]

15. Remove 14 CFR part 191.

Issued in Washington, DC on February 14, 2002.

Jane F. Garvey,
Administrator.

Transportation Security Administration
49 CFR Chapter XII

For the reasons stated in the preamble, the Transportation Security Administration amends 49 CFR Chapter XII as follows:

1. Add new subchapter A and part 1500 to Chapter XII to read as follows:

SUBCHAPTER A—ADMINISTRATIVE AND PROCEDURAL RULES

PART 1500—APPLICABILITY, TERMS, AND ABBREVIATIONS

Sec.

1500.1 Applicability.

1500.3 Terms and abbreviations used in this chapter.

1500.5 Rules of construction.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1500.1 Applicability.

This chapter, this subchapter, and this part apply to all matters regulated by the Transportation Security Administration.

§ 1500.3 Terms and abbreviations used in this chapter.

As used in this chapter:

Person means an individual, corporation, company, association, firm, partnership, society, joint-stock company, or governmental authority. It includes a trustee, receiver, assignee, successor, or similar representative of any of them.

Transportation Security Regulations (TSR) means the regulations issued by the Transportation Security Administration, in title 49 of the Code of Federal Regulations, chapter XII, which includes parts 1500 through 1699.

TSA means the Transportation Security Administration.

Under Secretary means the Under Secretary of Transportation for Security.

United States, in a geographical sense, means the States of the United States, the District of Columbia, and territories and possessions of the United States, including the territorial sea and the overlying airspace.

§ 1500.5 Rules of construction.

(a) In this chapter, unless the context requires otherwise:

(1) Words importing the singular include the plural.

(2) Words importing the plural include the singular.

(3) Words importing the masculine gender include the feminine.

(b) In this chapter, the word:

(1) “Must” is used in an imperative sense;

(2) “May” is used in a permissive sense to state authority or permission to do the act prescribed, and the words “no person may * * *” or “a person

may not * * *” mean that no person is required, authorized, or permitted to do the act prescribed; and

(3) “Includes” means “includes but is not limited to”.

2. Existing part 1510 is transferred to subchapter A.

3. Add new subchapter B and part 1520 to Chapter XII.

SUBCHAPTER B—SECURITY RULES FOR ALL MODES OF TRANSPORTATION

PART 1520—PROTECTION OF SENSITIVE SECURITY INFORMATION

Sec.

1520.1 Applicability and definitions.

1520.3 Records and information withheld by the Department of Transportation.

1520.5 Records and information protected by others.

1520.7 Sensitive security information.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1520.1 Applicability and definitions.

(a) This part governs the release, by the Transportation Security Administration and by other persons, of records and information that has been obtained or developed during security activities or research and development activities.

(b) For purposes of this part:

Record includes any writing, drawing, map, tape, film, photograph, or other means by which information is preserved, irrespective of format.

Vulnerability assessment means any examination of a transportation system, vehicle, or facility to determine its vulnerability to unlawful interference.

(c) The authority of the Under Secretary under this part may be further delegated within TSA.

(d) The Under Secretary’s authority under this part to withhold or to disclose sensitive security information is also exercised, in consultation with the Under Secretary, by the Commandant of the United States Coast Guard, as to matters affecting and information held by the Coast Guard, and the Administrator of each DOT administration, as to matters affecting and information held by that administration, and any individual formally designated to act in their capacity.

§ 1520.3 Records and information withheld by the Department of Transportation.

(a) Except as provided in paragraphs (c) and (d) of this section, and notwithstanding the Freedom of Information Act (5 U.S.C. 552) or other laws, the records and information described in § 1520.7 and paragraph (b) of this section are not available for

public inspection or copying, nor is information contained in those records released to the public.

(b) Section 1520.7 describes the information that TSA prohibits from disclosure. The Under Secretary prohibits disclosure of information developed in the conduct of security or research and development activities under 49 U.S.C. 40119 if, in the opinion of the Under Secretary, the disclosure of such information would:

(1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(2) Reveal trade secrets or privileged or confidential information obtained from any person; or

(3) Be detrimental to the safety of persons traveling in transportation.

(c) If a record contains information that the Under Secretary determines cannot be disclosed under this part, but also contains information that can be disclosed, the latter information, on proper Freedom of Information Act request, will be provided for public inspection and copying. However, if it is impractical to redact the requested information from the document, the entire document will be withheld from public disclosure.

(d) After initiation of legal enforcement action, if the alleged violator or designated representative so requests, the Chief Counsel, or designee, may provide copies of portions of the enforcement investigative report (EIR), including sensitive security information. This information may be released only to the alleged violator or designated representative for the sole purpose of providing the information necessary to prepare a response to the allegations contained in the legal enforcement action document. Such information is not released under the Freedom of Information Act. Whenever such documents are provided to an alleged violator or designated representative, the Chief Counsel or designee advises the alleged violator or designated representative that—

(1) The documents are provided for the sole purpose of providing the information necessary to respond to the allegations contained in the legal enforcement action document; and

(2) Sensitive security information contained in the documents provided must be maintained in a confidential manner to prevent compromising civil aviation security, as provided in § 1520.5.

§ 1520.5 Records and information protected by others.

(a) *Duty to protect information.* The following persons must restrict disclosure of and access to sensitive security information described in § 1520.7 (a) through (g), (j), (k), and (m) through (r), and, as applicable, § 1520.7 (l) to persons with a need to know and must refer requests by other persons for such information to TSA or the applicable DOT administration:

(1) Each person employed by, contracted to, or acting for a person listed in this paragraph (a).

(2) Each airport operator under part 1542 of this chapter.

(3) Each aircraft operator under part 1544 of this chapter.

(4) Each foreign air carrier under part 1546 of this chapter.

(5) Each indirect air carrier under part 1548 of this chapter.

(6) Each aircraft operator under § 1550.5 of this chapter.

(7) Each person receiving information under § 1520.3 (d).

(8) Each person for which a vulnerability assessment has been authorized, approved, or funded by DOT, irrespective of the mode of transportation.

(b) *Need to know.* For some specific sensitive security information, the Under Secretary may make a finding that only specific persons or classes of persons have a need to know. Otherwise, a person has a need to know sensitive security information in each of the following circumstances:

(1) When the person needs the information to carry out DOT-approved, accepted, or directed security duties.

(2) When the person is in training to carry out DOT-approved, accepted, or directed security duties.

(3) When the information is necessary for the person to supervise or otherwise manage the individuals carrying to carry out DOT-approved, accepted, or directed security duties.

(4) When the person needs the information to advise the persons listed in paragraph (a) of this section regarding any DOT security-related requirements.

(5) When the person needs the information to represent the persons listed in paragraph (a) of this section in connection with any judicial or administrative proceeding regarding those requirements.

(c) *Release of sensitive security information.* When sensitive security information is released to unauthorized persons, any person listed in paragraph (a) of this section or individual with knowledge of the release, must inform DOT.

(d) *Violation.* Violation of this section is grounds for a civil penalty and other

enforcement or corrective action by DOT.

(e) *Applicants.* Wherever this part refers to an aircraft operator, airport operator, foreign air carrier, or indirect air carrier, those terms also include applicants for such authority.

(f) *Trainees.* An individual who is in training for a position is considered to be employed by, contracted to, or acting for persons listed in paragraph (a) of this section, regardless of whether that individual is currently receiving a wage or salary or otherwise is being paid.

§ 1520.7 Sensitive security information.

Except as otherwise provided in writing by the Under Secretary as necessary in the interest of safety of persons in transportation, the following information and records containing such information constitute sensitive security information:

(a) Any approved, accepted, or standard security program under the rules listed in § 1520.5(a)(1) through (6), and any security program that relates to United States mail to be transported by air (including that of the United States Postal Service and of the Department of Defense); and any comments, instructions, or implementing guidance pertaining thereto.

(b) Security Directives and Information Circulars under § 1542.303 or § 1544.305 of this chapter, and any comments, instructions, or implementing guidance pertaining thereto.

(c) Any selection criteria used in any security screening process, including for persons, baggage, or cargo under the rules listed in § 1520.5(a)(1) through (6).

(d) Any security contingency plan or information and any comments, instructions, or implementing guidance pertaining thereto under the rules listed in § 1520.5(a)(1) through (6).

(e) Technical specifications of any device used for the detection of any deadly or dangerous weapon, explosive, incendiary, or destructive substance under the rules listed in § 1520.5(a)(1) through (6).

(f) A description of, or technical specifications of, objects used to test screening equipment and equipment parameters under the rules listed in § 1520.5(a)(1) through (6).

(g) Technical specifications of any security communications equipment and procedures under the rules listed in § 1520.5(a)(1) through (6).

(h) As to release of information by TSA: Any information that TSA has determined may reveal a systemic vulnerability of the aviation system, or a vulnerability of aviation facilities, to attack. This includes, but is not limited

to, details of inspections, investigations, and alleged violations and findings of violations of 14 CFR parts 107, 108, or 109 and 14 CFR 129.25, 129.26, or 129.27 in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001); or parts 1540, 1542, 1544, 1546, 1548, or § 1550.5 of this chapter, and any information that could lead the disclosure of such details, as follows:

(1) As to events that occurred less than 12 months before the date of the release of the information, the following are not released: the name of an airport where a violation occurred, the regional identifier in the case number, a description of the violation, the regulation allegedly violated, and the identity of the aircraft operator in connection with specific locations or specific security procedures. TSA may release summaries of an aircraft operator's total security violations in a specified time range without identifying specific violations. Summaries may include total enforcement actions, total proposed civil penalty amounts, total assessed civil penalty amounts, number of cases opened, number of cases referred to TSA or FAA counsel for legal enforcement action, and number of cases closed.

(2) As to events that occurred 12 months or more before the date of the release of information, the specific gate or other location on an airport where an event occurred is not released.

(3) The identity of TSA or FAA special agent who conducted the investigation or inspection.

(4) Security information or data developed during TSA or FAA evaluations of the aircraft operators and airports and the implementation of the security programs, including aircraft operator and airport inspections and screening point tests or methods for evaluating such tests under the rules listed in § 1520.5(a)(1) through (6).

(i) As to release of information by TSA: Information concerning threats against transportation.

(j) Specific details of aviation security measures whether applied directly by the TSA or entities subject to the rules listed in § 1520.5(a)(1) through (6). This includes, but is not limited to, information concerning specific numbers of Federal Air Marshals, deployments or missions, and the methods involved in such operations.

(k) Any other information, the disclosure of which TSA has prohibited under the criteria of 49 U.S.C. 40119.

(l) Any draft, proposed, or recommended change to the information and records identified in this section.

(m) The locations at which particular screening methods or equipment are used under the rules listed in § 1520.5(a)(1) through (6) if TSA determines that the information meets the criteria of 49 U.S.C. 40119.

(n) Any screener test used under the rules listed in § 1520.5(a)(1) through (6).

(o) Scores of tests administered under the rules listed in § 1520.5(a)(1) through (6).

(p) Performance data from screening systems, and from testing of screening systems under the rules listed in § 1520.5(a)(1) through (6).

(q) Threat images and descriptions of threat images for threat image projection systems under the rules listed in § 1520.5(a)(1) through (6).

(r) Information in a vulnerability assessment that has been authorized, approved, or funded by DOT, irrespective of mode of transportation.

4. Add new subchapter C and part 1540 to Chapter XII.

SUBCHAPTER C—CIVIL AVIATION SECURITY

PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

Subpart A—General

Sec.

1540.1 Applicability of this subchapter and this part.

1540.3 Delegation of authority.

1540.5 Terms used in this subchapter.

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

1540.101 Applicability of this subpart.

1540.103 Fraud and intentional falsification of records.

1540.105 Security responsibilities of employees and other persons.

1540.107 Submission to screening and inspection.

1540.109 Prohibition against interference with screening personnel.

1540.111 Carriage of weapons, explosives, and incendiaries by individuals.

1540.113 Inspection of airman certificate.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

Subpart A—General

§ 1540.1 Applicability of this subchapter and this part.

This subchapter and this part apply to persons engaged in aviation-related activities.

§ 1540.3 Delegation of authority.

(a) Where the Under Secretary is named in this subchapter as exercising authority over a function, the authority is exercised by the Under Secretary or the Deputy Under Secretary, or any individual formally designated to act as

the Under Secretary or the Deputy Under Secretary.

(b) Where TSA or the designated official is named in this subchapter as exercising authority over a function, the authority is exercised by the official designated by the Under Secretary to perform that function.

§ 1540.5 Terms used in this subchapter.

In addition to the terms in part 1500 of this chapter, the following terms are used in this subchapter:

Air operations area (AOA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under 49 CFR part 1544 or 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the secured area.

Aircraft operator means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of aircraft, or on any part of the surface of an airport. In specific parts or sections of this subchapter, “aircraft operator” is used to refer to specific types of operators as described in those parts or sections.

Airport operator means a person that operates an airport serving a aircraft operator or a foreign air carrier required to have a security program under part 1544 or 1546 of this chapter.

Airport security program means a security program approved by TSA under § 1542.101 of this chapter.

Airport tenant means any person, other than an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter, that has an agreement with the airport operator to conduct business on airport property.

Airport tenant security program means the agreement between the airport operator and an airport tenant that specifies the measures by which the tenant will perform security functions, and approved by TSA, under § 1542.113 of this chapter.

Approved, unless used with reference to another person, means approved by TSA.

Cargo means property tendered for air transportation accounted for on an air waybill. All accompanied commercial courier consignments, whether or not accounted for on an air waybill, are also

classified as cargo. Aircraft operator security programs further define the term “cargo.”

Checked baggage means property tendered by or on behalf of a passenger and accepted by an aircraft operator for transport, which is inaccessible to passengers during flight. Accompanied commercial courier consignments are not classified as checked baggage.

Escort means to accompany or monitor the activities of an individual who does not have unescorted access authority into or within a secured area or SIDA.

Exclusive area means any portion of a secured area, AOA, or SIDA, including individual access points, for which an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter has assumed responsibility under § 1542.111 of this chapter.

Exclusive area agreement means an agreement between the airport operator and an aircraft operator or a foreign air carrier that has a security program under parts 1544 or 1546 of this chapter that permits such an aircraft operator or foreign air carrier to assume responsibility for specified security measures in accordance with § 1542.111 of this chapter.

FAA means the Federal Aviation Administration.

Indirect air carrier means any person or entity within the United States not in possession of an FAA air carrier operating certificate, that undertakes to engage indirectly in air transportation of property, and uses for all or any part of such transportation the services of a passenger air carrier. This does not include the United States Postal Service (USPS) or its representative while acting on the behalf of the USPS.

Loaded firearm means a firearm that has a live round of ammunition, or any component thereof, in the chamber or cylinder or in a magazine inserted in the firearm.

Passenger seating configuration means the total maximum number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight, regardless of the number of seats actually installed, and includes that seat in certain aircraft that may be used by a representative of the FAA to conduct flight checks but is available for revenue purposes on other occasions.

Private charter means any aircraft operator flight—

(1) For which the charterer engages the total passenger capacity of the aircraft for the carriage of passengers; the passengers are invited by the charterer; the cost of the flight is borne

entirely by the charterer and not directly or indirectly by any individual passenger; and the flight is not advertised to the public, in any way, to solicit passengers.

(2) For which the total passenger capacity of the aircraft is used for the purpose of civilian or military air movement conducted under contract with the Government of the United States or the government of a foreign country.

Public charter means any charter flight that is not a private charter.

Scheduled passenger operation means an air transportation operation (a flight) from identified air terminals at a set time, which is held out to the public and announced by timetable or schedule, published in a newspaper, magazine, or other advertising medium.

Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

Screening location means each site at which individuals or property are inspected for the presence of weapons, explosives, or incendiaries.

Secured area means a portion of an airport, specified in the airport security program, in which certain security measures specified in part 1542 of this chapter are carried out. This area is where aircraft operators and foreign air carriers that have a security program under part 1544 or 1546 of this chapter enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security measures.

Security Identification Display Area (SIDA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes the secured area and may include other areas of the airport.

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

Unescorted access authority means the authority granted by an airport operator, an aircraft operator, foreign air carrier, or airport tenant under part 1542, 1544, or 1546 of this chapter, to individuals to gain entry to, and be present without an escort in, secured areas and SIDA's of airports.

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

§ 1540.101 Applicability of this subpart.

This subpart applies to individuals and other persons.

§ 1540.103 Fraud and intentional falsification of records.

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this subchapter.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this subchapter, or exercise any privileges under this subchapter.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this subchapter.

§ 1540.105 Security responsibilities of employees and other persons.

(a) No person may:

(1) Tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with, compromise, modify, or attempt to circumvent any security system, measure, or procedure implemented under this subchapter.

(2) Enter, or be present within, a secured area, AOA, SIDA or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas.

(3) Use, allow to be used, or cause to be used, any airport-issued or airport-approved access medium or identification medium that authorizes the access, presence, or movement of persons or vehicles in secured areas, AOA's, or SIDA's in any other manner than that for which it was issued by the appropriate authority under this subchapter.

(b) The provisions of paragraph (a) of this section do not apply to conducting inspections or tests to determine compliance with this part or 49 U.S.C. Subtitle VII authorized by:

(1) TSA, or

(2) The airport operator, aircraft operator, or foreign air carrier, when acting in accordance with the procedures described in a security program approved by TSA.

§ 1540.107 Submission to screening and inspection.

No individual may enter a sterile area without submitting to the screening and inspection of his or her person and accessible property in accordance with the procedures being applied to control access to that area under this subchapter.

§ 1540.109 Prohibition against interference with screening personnel.

No person may interfere with, assault, threaten, or intimidate screening personnel in the performance of their screening duties under this subchapter.

§ 1540.111 Carriage of weapons, explosives, and incendiaries by individuals.

(a) *On an individual's person or accessible property—prohibitions.* Except as provided in paragraph (b) of this section, an individual may not have a weapon, explosive, or incendiary, on or about the individual's person or accessible property—

(1) When performance has begun of the inspection of the individual's person or accessible property before entering a sterile area;

(2) When the individual is entering or in a sterile area; or

(3) When the individual is attempting to board or onboard an aircraft for which screening is conducted under § 1544.201 or § 1546.201 of this chapter.

(b) *On an individual's person or accessible property—permitted carriage of a weapon.* Paragraph (a) of this section does not apply as to carriage of firearms and other weapons if the individual is one of the following:

(1) Law enforcement personnel required to carry a firearm or other weapons while in the performance of law enforcement duty at the airport.

(2) An individual authorized to carry a weapon in accordance with §§ 1544.219, 1544.221, 1544.223, or 1546.211 of this chapter.

(3) An individual authorized to carry a weapon in a sterile area under a security program.

(c) *In checked baggage.* A passenger may not transport or offer for transport in checked baggage:

(1) Any loaded firearm(s).

(2) Any unloaded firearm(s) unless—

(i) The passenger declares to the aircraft operator, either orally or in writing, before checking the baggage, that the passenger has a firearm in his or her bag and that it is unloaded;

(ii) The firearm is unloaded;

(iii) The firearm is carried in a hard-sided container; and

(iv) The container in which it is carried is locked, and only the passenger retains the key or combination.

(3) Any unauthorized explosive or incendiary.

(d) *Ammunition.* This section does not prohibit the carriage of ammunition in checked baggage or in the same container as a firearm. Title 49 CFR part 175 provides additional requirements governing carriage of ammunition on aircraft.

§ 1540.113 Inspection of airman certificate.

Each individual who holds an airman certificate, medical certificate, authorization, or license issued by the FAA must present it for inspection upon a request from TSA.

5. Add new part 1542 to Chapter XII, Subchapter C.

PART 1542—AIRPORT SECURITY

Subpart A—General

Sec.

1542.1 Applicability of this part.

1542.3 Airport security coordinator.

1542.5 Inspection authority.

Subpart B—Airport Security Program

1542.101 General requirements.

1542.103 Content.

1542.105 Approval and amendments.

1542.103 Changed conditions affecting security.

1542.109 Alternate means of compliance.

1542.111 Exclusive area agreements.

1542.113 Airport tenant security programs.

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1542.201 Security of the secured area.

1542.203 Security of the air operations area (AOA).

1542.205 Security of the security identification display area (SIDA).

1542.207 Access control systems.

1542.209 Fingerprint-based criminal history records checks (CHRC).

1542.211 Identification systems.

1542.213 Training.

1542.215 Law enforcement support.

1542.217 Law enforcement personnel.

1542.219 Supplementing law enforcement personnel.

1542.221 Records of law enforcement response.

Subpart D—Contingency Measures

1542.301 Contingency plan.

1542.303 Security Directives and Information Circulars.

1542.305 Public advisories.

1542.307 Incident management.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44917, 44935–44936, 44942, 46105.

Subpart A—General

§ 1542.1 Applicability of this part.

This part describes aviation security rules governing:

(a) The operation of airports regularly serving aircraft operations required to be under a security program under part

1544 of this chapter, as described in this part.

(b) The operation of airport regularly serving foreign air carrier operations required to be under a security program under part 1546 of this chapter, as described in this part.

(c) Each airport operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular issued by the Designated official for Civil Aviation Security.

§ 1542.3 Airport security coordinator.

(a) Each airport operator must designate one or more Airport Security Coordinator(s) (ASC) in its security program.

(b) The airport operator must ensure that one or more ASCs:

(1) Serve as the airport operator's primary and immediate contact for security-related activities and communications with TSA. Any individual designated as an ASC may perform other duties in addition to those described in this paragraph (b).

(2) Is available to TSA on a 24-hour basis.

(3) Review with sufficient frequency all security-related functions to ensure that all are effective and in compliance with this part, its security program, and applicable Security Directives.

(4) Immediately initiate corrective action for any instance of non-compliance with this part, its security program, and applicable Security Directives.

(5) Review and control the results of employment history, verification, and criminal history records checks required under § 1542.209.

(6) Serve as the contact to receive notification from individuals applying for unescorted access of their intent to seek correction of their criminal history record with the FBI.

(c) After July 17, 2003, no airport operator may use, nor may it designate any person as, an ASC unless that individual has completed subject matter training, as specified in its security program, to prepare the individual to assume the duties of the position. The airport operator must maintain ASC training documentation until at least 180 days after the withdrawal of a individual's designation as an ASC.

(d) An individual's satisfactory completion of initial ASC training required under paragraph (c) of this section satisfies that requirement for all future ASC designations for that individual, except for site specific information, unless there has been a two

or more year break in service as an active and designated ASC.

§ 1542.5 Inspection authority.

(a) Each airport operator must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each airport operator must provide evidence of compliance with this part and its airport security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOA's, and SIDA's without access media or identification media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) At the request of TSA and upon the completion of SIDA training as required in a security program, each airport operator promptly must issue to TSA personnel access and identification media to provide TSA personnel with unescorted access to, and movement within, secured areas, AOA's, and SIDA's.

Subpart B—Airport Security Program

§ 1542.101 General requirements.

(a) No person may operate an airport subject to this part unless it adopts and carries out a security program that—

(1) Provides for the safety and security of persons and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence, aircraft piracy, and the introduction of an unauthorized weapon, explosive, or incendiary onto an aircraft;

(2) Is in writing and is signed by the airport operator;

(3) Includes the applicable items listed in § 1542.103;

(4) Includes an index organized in the same subject area sequence as § 1542.103; and

(5) Has been approved by TSA.

(b) The airport operator must maintain one current and complete copy of its security program and provide a copy to TSA upon request.

(c) Each airport operator must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information (SSI), as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer all requests for SSI by other persons to TSA.

§ 1542.103 Content.

(a) *Complete program.* Except as otherwise approved by TSA, each airport operator regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(a)(1) or § 1546.101(a) of this chapter, must include in its security program the following:

(1) The name, means of contact, duties, and training requirements of the ASC required under § 1542.3.

(2) [Reserved]

(3) A description of the secured areas, including—

(i) A description and map detailing boundaries and pertinent features;

(ii) Each activity or entity on, or adjacent to, a secured area that affects security;

(iii) Measures used to perform the access control functions required under § 1542.201(b)(1);

(iv) Procedures to control movement within the secured area, including identification media required under § 1542.201(b)(3); and

(v) A description of the notification signs required under § 1542.201(b)(6).

(4) A description of the AOA, including—

(i) A description and map detailing boundaries, and pertinent features;

(ii) Each activity or entity on, or adjacent to, an AOA that affects security;

(iii) Measures used to perform the access control functions required under § 1542.203(b)(1);

(iv) Measures to control movement within the AOA, including identification media as appropriate; and

(v) A description of the notification signs required under § 1542.203(b)(4).

(5) A description of the SIDA's, including—

(i) A description and map detailing boundaries and pertinent features; and

(ii) Each activity or entity on, or adjacent to, a SIDA.

(6) A description of the sterile areas, including—

(i) A diagram with dimensions detailing boundaries and pertinent features;

(ii) Access controls to be used when the passenger-screening checkpoint is non-operational and the entity responsible for that access control; and

(iii) Measures used to control access as specified in § 1542.207.

(7) Procedures used to comply with § 1542.209 regarding fingerprint-based criminal history records checks.

(8) A description of the personnel identification systems as described in § 1542.211.

(9) Escort procedures in accordance with § 1542.211(e).

(10) Challenge procedures in accordance with § 1542.211(d).

(11) Training programs required under §§ 1542.213 and 1542.217(c)(2), if applicable.

(12) A description of law enforcement support used to comply with § 1542.215(a).

(13) A system for maintaining the records described in § 1542.221.

(14) The procedures and a description of facilities and equipment used to support TSA inspection of individuals and property, and aircraft operator or foreign air carrier screening functions of parts 1544 and 1546 of this chapter.

(15) A contingency plan required under § 1542.301.

(16) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(17) Procedures for posting of public advisories as specified in § 1542.305.

(18) Incident management procedures used to comply with § 1542.307.

(19) Alternate security procedures, if any, that the airport operator intends to use in the event of natural disasters, and other emergency or unusual conditions.

(20) Each exclusive area agreement as specified in § 1542.111.

(21) Each airport tenant security program as specified in § 1542.113.

(b) *Supporting program.* Except as otherwise approved by TSA, each airport regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(a)(2) or (f), or § 1546.101(b) or (c) of this chapter, must include in its security program a description of the following:

(1) Name, means of contact, duties, and training requirements of the ASC, as required under § 1542.3.

(2) A description of the law enforcement support used to comply with § 1542.215(a).

(3) Training program for law enforcement personnel required under § 1542.217(c)(2), if applicable.

(4) A system for maintaining the records described in § 1542.221.

(5) The contingency plan required under § 1542.301.

(6) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(7) Procedures for public advisories as specified in § 1542.305.

(8) Incident management procedures used to comply with § 1542.307.

(c) *Partial program.* Except as otherwise approved by TSA, each airport regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(b) or § 1546.101(d) of this chapter, must include in its security program a description of the following:

(1) Name, means of contact, duties, and training requirements of the ASC as required under § 1542.3.

(2) A description of the law enforcement support used to comply with § 1542.215(b).

(3) Training program for law enforcement personnel required under § 1542.217(c)(2), if applicable.

(4) A system for maintaining the records described in § 1542.221.

(5) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(6) Procedures for public advisories as specified in § 1542.305.

(7) Incident management procedures used to comply with § 1542.307.

(d) *Use of appendices.* The airport operator may comply with paragraphs (a), (b), and (c) of this section by including in its security program, as an appendix, any document that contains the information required by paragraphs (a), (b), and (c) of this section. The appendix must be referenced in the corresponding section(s) of the security program.

§ 1542.105 Approval and amendments.

(a) *Initial approval of security program.* Unless otherwise authorized by the designated official, each airport operator required to have a security program under this part must submit its initial proposed security program to the designated official for approval at least 90 days before the date any aircraft operator or foreign air carrier required to have a security program under part 1544 or part 1546 of this chapter is expected to begin operations. Such requests will be processed as follows:

(1) The designated official, within 30 days after receiving the proposed security program, will either approve the program or give the airport operator written notice to modify the program to comply with the applicable requirements of this part.

(2) The airport operator may either submit a modified security program to the designated official for approval, or petition the Under Secretary to reconsider the notice to modify within 30 days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an airport operator.* Except as provided in § 1542.103(c), an airport operator may submit a request to the designated official to amend its security program, as follows:

(1) The request for an amendment must be filed with the designated official at least 45 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 30 days after receiving a denial, the airport operator may petition the Under Secretary to reconsider the denial.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition within 30 days of receipt, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to approve the amendment or affirming the denial.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, the designated official may amend a security program as follows:

(1) The designated official sends to the airport operator a notice, in writing, of the proposed amendment, fixing a period of not less than 30 days within which the airport operator may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the airport operator of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 days after the airport operator receives the notice of

amendment, unless the airport operator petitions the Under Secretary to reconsider no later than 15 days before the effective date of the amendment. The airport operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice, or transmits the petition, together with any pertinent information to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* Notwithstanding paragraph (c) of this section, if the designated official finds that there is an emergency requiring immediate action with respect to safety and security in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, effective without stay on the date the airport operator receives the notice of it. In such a case, the designated official must incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The airport operator may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effective date of the emergency amendment.

§ 1542.107 Changed conditions affecting security.

(a) After approval of the security program, each airport operator must notify TSA when changes have occurred to the—

(1) Measures, training, area descriptions, or staffing, described in the security program;

(2) Operations of an aircraft operator or foreign air carrier that would require modifications to the security program as required under § 1542.103; or

(3) Layout or physical structure of any area under the control of the airport operator, airport tenant, aircraft operator, or foreign air carrier used to support the screening process, access, presence, or movement control functions required under part 1542, 1544, or 1546 of this chapter.

(b) Each airport operator must notify TSA no more than 6 hours after the discovery of any changed condition described in paragraph (a) of this section, or within the time specified in its security program, of the discovery of any changed condition described in

paragraph (a) of this section. The airport operator must inform TSA of each interim measure being taken to maintain adequate security until an appropriate amendment to the security program is approved. Each interim measure must be acceptable to TSA.

(c) For changed conditions expected to be less than 60 days duration, each airport operator must forward the information required in paragraph (b) of this section in writing to TSA within 72 hours of the original notification of the change condition(s). TSA will notify the airport operator of the disposition of the notification in writing. If approved by TSA, this written notification becomes a part of the airport security program for the duration of the changed condition(s).

(d) For changed conditions expected to be 60 days or more duration, each airport operator must forward the information required in paragraph (b) of this section in the form of a proposed amendment to the airport operator's security program, as required under § 1542.105. The request for an amendment must be made within 30 days of the discovery of the changed condition(s). TSA will respond to the request in accordance with § 1542.105.

§ 1542.109 Alternate means of compliance.

If in TSA's judgment, the overall safety and security of the airport, and aircraft operator or foreign air carrier operations are not diminished, TSA may approve a security program that provides for the use of alternate measures. Such a program may be considered only for an operator of an airport at which service by aircraft operators or foreign air carriers under part 1544 or 1546 of this chapter is determined by TSA to be seasonal or infrequent.

§ 1542.111 Exclusive area agreements.

(a) TSA may approve an amendment to an airport security program under which an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter assumes responsibility for specified security measures for all or portions of the secured area, AOA, or SIDA, including access points, as provided in § 1542.201, § 1542.203, or § 1542.205. The assumption of responsibility must be exclusive to one aircraft operator or foreign air carrier, and shared responsibility among aircraft operators or foreign air carriers is not permitted for an exclusive area.

(b) An exclusive area agreement must be in writing, signed by the airport operator and aircraft operator or foreign air carrier, and maintained in the airport

security program. This agreement must contain the following:

(1) A description, a map, and, where appropriate, a diagram of the boundaries and pertinent features of each area, including individual access points, over which the aircraft operator or foreign air carrier will exercise exclusive security responsibility.

(2) A description of the measures used by the aircraft operator or foreign air carrier to comply with § 1542.201, § 1542.203, or § 1542.205, as appropriate.

(3) Procedures by which the aircraft operator or foreign air carrier will immediately notify the airport operator and provide for alternative security measures when there are changed conditions as described in § 1542.103(a).

(c) Any exclusive area agreements in effect on November 14, 2001, must meet the requirements of this section and § 1544.227 no later than November 14, 2002.

§ 1542.113 Airport tenant security programs.

(a) TSA may approve an airport tenant security program as follows:

(1) The tenant must assume responsibility for specified security measures of the secured area, AOA, or SIDA as provided in §§ 1542.201, 1542.203, and 1542.205.

(2) The tenant may not assume responsibility for law enforcement support under § 1542.215.

(3) The tenant must assume the responsibility within the tenant's leased areas or areas designated for the tenant's exclusive use. A tenant may not assume responsibility under a tenant security program for the airport passenger terminal.

(4) Responsibility must be exclusive to one tenant, and shared responsibility among tenants is not permitted.

(5) TSA must find that the tenant is able and willing to carry out the airport tenant security program.

(b) An airport tenant security program must be in writing, signed by the airport operator and the airport tenant, and maintained in the airport security program. The airport tenant security program must include the following:

(1) A description and a map of the boundaries and pertinent features of each area over which the airport tenant will exercise security responsibilities.

(2) A description of the measures the airport tenant has assumed.

(3) Measures by which the airport operator will monitor and audit the tenant's compliance with the security program.

(4) Monetary and other penalties to which the tenant may be subject if it

fails to carry out the airport tenant security program.

(5) Circumstances under which the airport operator will terminate the airport tenant security program for cause.

(6) A provision acknowledging that the tenant is subject to inspection by TSA in accordance with § 1542.5.

(7) A provision acknowledging that individuals who carry out the tenant security program are contracted to or acting for the airport operator and are required to protect sensitive information in accordance with part 1520 of this chapter, and may be subject to civil penalties for failing to protect sensitive security information.

(8) Procedures by which the tenant will immediately notify the airport operator of and provide for alternative security measures for changed conditions as described in § 1542.103(a).

(c) If TSA has approved an airport tenant security program, the airport operator may not be found to be in violation of a requirement of this part in any case in which the airport operator demonstrates that:

(1) The tenant or an employee, permittee, or invitee of the tenant, is responsible for such violation; and

(2) The airport operator has complied with all measures in its security program to ensure the tenant has complied with the airport tenant security program.

(d) TSA may amend or terminate an airport tenant security program in accordance with § 1542.105.

Subpart C—Operations

§ 1542.201 Security of the secured area.

(a) Each airport operator required to have a security program under § 1542.103(a) must establish at least one secured area.

(b) Each airport operator required to establish a secured area must prevent and detect the unauthorized entry, presence, and movement of individuals and ground vehicles into and within the secured area by doing the following:

(1) Establish and carry out measures for controlling entry to secured areas of the airport in accordance with § 1542.207.

(2) Provide for detection of, and response to, each unauthorized presence or movement in, or attempted entry to, the secured area by an individual whose access is not authorized in accordance with its security program.

(3) Establish and carry out a personnel identification system described under § 1542.211.

(4) Subject each individual to employment history verification as

described in § 1542.209 before authorizing unescorted access to a secured area.

(5) Train each individual before granting unescorted access to the secured area, as required in § 1542.213(b).

(6) Post signs at secured area access points and on the perimeter that provide warning of the prohibition against unauthorized entry. Signs must be posted by each airport operator in accordance with its security program not later than November 14, 2003.

§ 1542.203 Security of the air operations area (AOA).

(a) Each airport operator required to have a security program under § 1542.103(a) must establish an AOA, unless the entire area is designated as a secured area.

(b) Each airport operator required to establish an AOA must prevent and detect the unauthorized entry, presence, and movement of individuals and ground vehicles into or within the AOA by doing the following:

(1) Establish and carry out measures for controlling entry to the AOA of the airport in accordance with § 1542.207.

(2) Provide for detection of, and response to, each unauthorized presence or movement in, or attempted entry to, the AOA by an individual whose access is not authorized in accordance with its security program.

(3) Provide security information as described in § 1542.213(c) to each individual with unescorted access to the AOA.

(4) Post signs on AOA access points and perimeters that provide warning of the prohibition against unauthorized entry to the AOA. Signs must be posted by each airport operator in accordance with its security program not later than November 14, 2003.

(5) If approved by TSA, the airport operator may designate all or portions of its AOA as a SIDA, or may use another personnel identification system, as part of its means of meeting the requirements of this section. If it uses another personnel identification system, the media must be clearly distinguishable from those used in the secured area and SIDA.

§ 1542.205 Security of the security identification display area (SIDA).

(a) Each airport operator required to have a security program under § 1542.103(a) must establish at least one SIDA. Each secured area must be a SIDA. Other areas of the airport may be SIDA's.

(b) Each airport operator required to establish a SIDA must establish and

carry out measures to prevent the unauthorized presence and movement of individuals in the SIDA and must do the following:

(1) Establish and carry out a personnel identification system described under § 1542.211.

(2) Subject each individual to employment history verification as described in § 1542.209 before authorizing unescorted access to a SIDA.

(3) Train each individual before granting unescorted access to the SIDA, as required in § 1542.213(b).

§ 1542.207 Access control systems.

(a) *Secured area.* Except as provided in paragraph (b) of this section, the measures for controlling entry to the secured area required under § 1542.201(b)(1) must—

(1) Ensure that only those individuals authorized to have unescorted access to the secured area are able to gain entry;

(2) Ensure that an individual is immediately denied entry to a secured area when that person's access authority for that area is withdrawn; and

(3) Provide a means to differentiate between individuals authorized to have access to an entire secured area and individuals authorized access to only a particular portion of a secured area.

(b) *Alternative systems.* TSA may approve an amendment to a security program that provides alternative measures that provide an overall level of security equal to that which would be provided by the measures described in paragraph (a) of this section.

(c) *Air operations area.* The measures for controlling entry to the AOA required under § 1542.203(b)(1) must incorporate accountability procedures to maintain their integrity.

(d) *Secondary access media.* An airport operator may issue a second access medium to an individual who has unescorted access to secured areas or the AOA, but is temporarily not in possession of the original access medium, if the airport operator follows measures and procedures in the security program that—

(1) Verifies the authorization of the individual to have unescorted access to secured areas or AOAs;

(2) Restricts the time period of entry with the second access medium;

(3) Retrieves the second access medium when expired;

(4) Deactivates or invalidates the original access medium until the individual returns the second access medium; and

(5) Provides that any second access media that is also used as identification media meet the criteria of § 1542.211(b).

§ 1542.209 Fingerprint-based criminal history records checks (CHRC).

(a) *Scope.* The following persons are within the scope of this section—

(1) Each airport operator and airport user.

(2) Each individual currently having unescorted access to a SIDA, and each individual with authority to authorize others to have unescorted access to a SIDA (referred to as unescorted access authority).

(3) Each individual seeking unescorted access authority.

(4) Each airport user and aircraft operator making a certification to an airport operator pursuant to paragraph (n) of this section, or 14 CFR 108.31(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001). An airport user, for the purposes of this section only, is any person other than an aircraft operator subject to § 1544.229 of this chapter making a certification under this section.

(b) *Individuals seeking unescorted access authority.* Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section.

(c) *Individuals who have not had a CHRC.* (1) Except as provided in paragraph (m) of this section, each airport operator must ensure that after December 6, 2002, no individual retains unescorted access authority, unless the airport operator has obtained and submitted a fingerprint under this part.

(2) When a CHRC discloses a disqualifying criminal offense for which the conviction or finding of not guilty by reason of insanity was on or after December 6, 1991, the airport operator must immediately suspend that individual's authority.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty of by reason of insanity, of any of the disqualifying crimes listed in this paragraph (d) in any jurisdiction during the 10 years before the date of the individual's application for unescorted access authority, or while the individual has unescorted access authority. The disqualifying criminal offenses are as follows—

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the airport operator must

provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1542.209 (l) impose a continuing obligation to disclose to the airport operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has unescorted access authority. After February 17, 2002, the airport operator may use statements that have already been printed referring to 14 CFR 107.209 until stocks of such statements are used up.

(iv) A statement reading, “The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)”

(v) A line for the printed name of the individual.

(vi) A line for the individual’s signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The airport operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The airport operator must advise the individual that:

(i) A copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) The ASC is the individual’s point of contact if he or she has questions about the results of the CHRC.

(5) The airport operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation of the airport operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Airport operators must pay for all fingerprints in a form and manner approved by TSA.

The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available through the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual seeking unescorted access authority discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the airport operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting that authority. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual with unescorted access authority discloses an arrest for any disqualifying criminal offense without indicating a disposition, the airport operator must suspend the individual’s unescorted access authority not later than 45 days after obtaining the CHRC unless the airport operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The airport operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, unescorted access authority, and who are not covered by a certification from an aircraft operator under paragraph (n) of this section. The airport operator may not make determinations for individuals described in § 1544.229 of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny unescorted access authority to an individual described in paragraph (b) of this section, the airport operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining unescorted access authority and provide the individual with a copy

of the FBI record if he or she requests it.

(2) The airport operator must notify an individual that a final decision has been made to grant or deny unescorted access authority.

(3) Immediately following the suspension of unescorted access authority of an individual, the airport operator must advise him or her that the FBI criminal record discloses information that disqualifies him or her from retaining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority on or after December 6, 2001, the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to granting unescorted access authority.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the airport operator may make a final determination to deny unescorted access authority.

(2) For an individual with unescorted access authority before December 6, 2001, the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating unescorted access authority.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 1544.229 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of other airport operators who are determining whether to grant unescorted access to the individual under this part.

(3) Aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under part 1544 of this chapter.

(4) Others designated by TSA.

(k) *Recordkeeping.* The airport operator must maintain the following information:

(1) *Investigations conducted before December 6, 2001.* The airport operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, or the appropriate certifications, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* Except when the airport operator has received a certification under paragraph (n) of this section, the airport operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct airport operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Certification on or after December 6, 2001.* The airport operator must maintain the certifications provided under paragraph (n) of this section.

(4) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(5) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's unescorted access authority. When files are no longer maintained, the criminal record must be destroyed.

(l) *Continuing responsibilities.* (1) Each individual with unescorted access authority on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the airport operator and surrender the SIDA access medium to the issuer.

(2) Each individual with unescorted access authority who has a disqualifying criminal offense must report the offense to the airport operator and surrender the SIDA access medium to the issuer

within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access authority has a disqualifying criminal offense, the airport operator must determine the status of the conviction. If a disqualifying offense is confirmed the airport operator must immediately revoke any unescorted access authority.

(m) *Exceptions.* Notwithstanding the requirements of this section, an airport operator must authorize the following individuals to have unescorted access authority:

(1) An employee of the Federal, state, or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation that includes a criminal records check.

(2) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access authority:

(i) An individual who has been continuously employed in a position requiring unescorted access authority by another airport operator, airport user, or aircraft operator, or contractor to such an entity, provided the grant for his or her unescorted access authority was based upon a fingerprint-based CHRC through TSA or FAA.

(ii) An individual who has been continuously employed by an aircraft operator or aircraft operator contractor, in a position with authority to perform screening functions, provided the grant for his or her authority to perform screening functions was based upon a fingerprint-based CHRC through TSA or FAA.

(n) *Certifications by aircraft operators.* An airport operator is in compliance with its obligation under paragraph (b) or (c) of this section when the airport operator accepts, for each individual seeking unescorted access authority, certification from an aircraft operator subject to part 1544 of this chapter indicating it has complied with § 1544.229 of this chapter for the aircraft operator's employees and contractors seeking unescorted access authority. If the airport operator accepts a certification from the aircraft operator, the airport operator may not require the aircraft operator to provide a copy of the CHRC.

(o) *Airport operator responsibility.*

The airport operator must—

(1) Designate the ASC, in the security program, or a direct employee if the ASC is not a direct employee, to be responsible for maintaining, controlling,

and destroying the criminal record files when their maintenance is no longer required by paragraph (k) of this section.

(2) Designate the ASC, in the security program, to serve as the contact to receive notification from individuals applying for unescorted access authority of their intent to seek correction of their FBI criminal record.

(3) Audit the employment history investigations performed by the airport operator in accordance with this section and 14 CFR 107.31 in effect prior to November 14, 2001 (see 14 CFR Parts 60 through 139 revised as of January 1, 2001), and those investigations conducted by the airport users who provided certification to the airport operator. The audit program must be set forth in the airport security program.

(p) *Airport user responsibility.* (1) The airport user must report to the airport operator information, as it becomes available, that indicates an individual with unescorted access authority may have a disqualifying criminal offense.

(2) The airport user must maintain and control, in compliance with paragraph (k) of this section, the employment history investigation files for investigations conducted before December 6, 2001, unless the airport operator decides to maintain and control the employment history investigation file.

(3) The airport user must provide the airport operator with either the name or title of the individual acting as custodian of the files described in this paragraph (p), the address of the location where the files are maintained, and the phone number of that location. The airport user must provide the airport operator and TSA with access to these files.

§ 1542.211 Identification systems.

(a) *Personnel identification system.* The personnel identification system under §§ 1542.201(b)(3) and 1542.205(b)(1) must include the following:

(1) Personnel identification media that—

(i) Convey a full-face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification

medium issued to that individual on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media and media of persons who no longer have unescorted access authority.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year or sooner, as necessary, to ensure the integrity and accountability of all identification media.

(v) As specified in the security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or otherwise unaccounted for, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time, except for personnel who are employed with more than one company and require additional identification media to carry out employment duties. A replacement identification medium may only be issued if an individual declares in writing that the medium has been lost, stolen, or destroyed.

(b) *Temporary identification media.* Each airport operator may issue personnel identification media in accordance with its security program to persons whose duties are expected to be temporary. The temporary identification media system must include procedures and methods to—

(1) Retrieve temporary identification media;

(2) Authorize the use of a temporary media for a limited time only;

(3) Ensure that temporary media are distinct from other identification media and clearly display an expiration date; and

(4) Ensure that any identification media also being used as an access media meet the criteria of § 1542.207(d).

(c) *Airport-approved identification media.* TSA may approve an amendment to the airport security program that provides for the use of identification media meeting the criteria of this section that are issued by entities other than the airport operator, as described in the security program.

(d) *Challenge program.* Each airport operator must establish and carry out a challenge program that requires each individual who has authorized unescorted access to secured areas and SIDA's to ascertain the authority of any

individual who is not displaying an identification medium authorizing the individual to be present in the area. The challenge program must include procedures to challenge individuals not displaying airport approved identification media. The procedure must—

(1) Apply uniformly in secured areas, SIDA's, and exclusive areas;

(2) Describe how to challenge an individual directly or report any individual not visibly displaying an authorized identification medium, including procedures to notify the appropriate authority; and

(3) Describe support of challenge procedures, including law enforcement and any other responses to reports of individuals not displaying authorized identification media.

(e) *Escorting.* Each airport operator must establish and implement procedures for escorting individuals who do not have unescorted access authority to a secured area or SIDA that—

(1) Ensure that only individuals with unescorted access authority are permitted to escort;

(2) Ensure that the escorted individuals are continuously accompanied or monitored while within the secured area or SIDA in a manner sufficient to identify whether the escorted individual is engaged in activities other than those for which escorted access was granted, and to take action in accordance with the airport security program;

(3) Identify what action is to be taken by the escort, or other authorized individual, should individuals under escort engage in activities other than those for which access was granted;

(4) Prescribe law enforcement support for escort procedures; and

(5) Ensure that individuals escorted into a sterile area without being screened under § 1544.201 of this chapter remain under escort until they exit the sterile area, or submit to screening pursuant to § 1544.201 or § 1546.201 of this chapter.

(f) *Effective date.* The identification systems described in this section must be implemented by each airport operator not later than November 14, 2003.

§ 1542.213 Training.

(a) Each airport operator must ensure that individuals performing security-related functions for the airport operator are briefed on the provisions of this part, Security Directives, and Information Circulars, and the security program, to the extent that such

individuals need to know in order to perform their duties.

(b) An airport operator may not authorize any individual unescorted access to the secured area or SIDA, except as provided in § 1542.5, unless that individual has successfully completed training in accordance with TSA-approved curriculum specified in the security program. This curriculum must detail the methods of instruction, provide attendees with an opportunity to ask questions, and include at least the following topics—

(1) The unescorted access authority of the individual to enter and be present in various areas of the airport;

(2) Control, use, and display of airport-approved access and identification media;

(3) Escort and challenge procedures and the law enforcement support for these procedures;

(4) Security responsibilities as specified in § 1540.105;

(5) Restrictions on divulging sensitive security information as described in part 1520 of this chapter; and

(6) Any other topics specified in the security program.

(c) An airport operator may not authorize any individual unescorted access to the AOA, except as provided in § 1542.5, unless that individual has been provided information in accordance with the security program, including—

(1) The unescorted access authority of the individual to enter and be present in various areas of the airport;

(2) Control, use, and display of airport-approved access and identification media, if appropriate;

(3) Escort and challenge procedures and the law enforcement support for these procedures, where applicable;

(4) Security responsibilities as specified in § 1540.105;

(5) Restrictions on divulging sensitive security information as described in part 1520 of this chapter; and

(6) Any other topics specified in the security program.

(d) Each airport operator must maintain a record of all training and information given to each individual under paragraphs (b) and (c) of this section for 180 days after the termination of that person's unescorted access authority.

(e) As to persons with unescorted access to the SIDA on November 14, 2001, training on responsibility under § 1540.105 can be provided by making relevant security information available.

(f) Training described in paragraph (c) of this section must be implemented by each airport operator not later than November 14, 2002.

§ 1542.215 Law enforcement support.

(a) In accordance with § 1542.217, each airport operator required to have a security program under § 1542.103(a) or (b) must provide:

(1) Law enforcement personnel in the number and manner adequate to support its security program.

(2) Uniformed law enforcement personnel in the number and manner adequate to support each system for screening persons and accessible property required under part 1544 or 1546 of this chapter, except to the extent that TSA provides Federal law enforcement support for the system.

(b) Each airport required to have a security program under § 1542.103(c) must ensure that:

(1) Law enforcement personnel are available and committed to respond to an incident in support of a civil aviation security program when requested by an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter.

(2) The procedures by which to request law enforcement support are provided to each aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter.

§ 1542.217 Law enforcement personnel.

(a) Each airport operator must ensure that law enforcement personnel used to meet the requirements of § 1542.215, meet the following qualifications while on duty at the airport—

(1) Have arrest authority described in paragraph (b) of this section;

(2) Are identifiable by appropriate indicia of authority;

(3) Are armed with a firearm and authorized to use it; and

(4) Have completed a training program that meets the requirements of paragraphs (c) and (d) of this section.

(b) Each airport operator must ensure that each individual used to meet the requirements of § 1542.215 have the authority to arrest, with or without a warrant, while on duty at the airport for the following violations of the criminal laws of the State and local jurisdictions in which the airport is located—

(1) A crime committed in the presence of the individual; and

(2) A felony, when the individual has reason to believe that the suspect has committed it.

(c) The training program required by paragraph (a)(4) of this section must—

(1) Meet the training standard for law enforcement officers prescribed by either the State or local jurisdiction in which the airport is located for law enforcement officers performing comparable functions.

(2) Specify and require training standards for private law enforcement personnel acceptable to TSA, if the State and local jurisdictions in which the airport is located do not prescribe training standards for private law enforcement personnel that meets the standards in paragraph (a) of this section.

(3) Include training in—

(i) The use of firearms;

(ii) The courteous and efficient treatment of persons subject to inspection, detention, search, arrest, and other aviation security activities;

(iii) The responsibilities of law enforcement personnel under the security program; and

(iv) Any other subject TSA determines is necessary.

(d) Each airport operator must document the training program required by paragraph (a)(4) of this section and maintain documentation of training at a location specified in the security program until 180 days after the departure or removal of each person providing law enforcement support at the airport.

§ 1542.219 Supplementing law enforcement personnel.

(a) When TSA decides, after being notified by an airport operator as prescribed in this section, that not enough qualified State, local, and private law enforcement personnel are available to carry out the requirements of § 1542.215, TSA may authorize the airport operator to use, on a reimbursable basis, personnel employed by TSA, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality to supplement State, local, and private law enforcement personnel.

(b) Each request for the use of Federal personnel must be submitted to TSA and include the following information:

(1) The number of passengers enplaned at the airport during the preceding calendar year and the current calendar year as of the date of the request.

(2) The anticipated risk of criminal violence, sabotage, aircraft piracy, and other unlawful interference to civil aviation operations.

(3) A copy of that portion of the security program which describes the law enforcement support necessary to comply with § 1542.215.

(4) The availability of law enforcement personnel who meet the requirements of § 1542.217, including a description of the airport operator's efforts to obtain law enforcement

support from State, local, and private agencies and the responses of those agencies.

(5) The airport operator's estimate of the number of Federal personnel needed to supplement available law enforcement personnel and the period of time for which they are needed.

(6) A statement acknowledging responsibility for providing reimbursement for the cost of providing Federal personnel.

(7) Any other information TSA considers necessary.

(c) In response to a request submitted in accordance with this section, TSA may authorize, on a reimbursable basis, the use of personnel employed by a Federal agency, with the consent of the head of that agency.

§ 1542.221 Records of law enforcement response.

(a) Each airport operator must ensure that—

(1) A record is made of each law enforcement action taken in furtherance of this part; and

(2) The record is maintained for a minimum of 180 days.

(b) Data developed in response to paragraph (a) of this section must include at least the following, except as authorized by TSA:

(1) The number and type of weapons, explosives, or incendiaries discovered during any passenger-screening process, and the method of detection of each.

(2) The number of acts and attempted acts of aircraft piracy.

(3) The number of bomb threats received, real and simulated bombs found, and actual detonations on the airport.

(4) The number of arrests, including—

(i) Name, address, and the immediate disposition of each individual arrested;

(ii) Type of weapon, explosive, or incendiary confiscated, as appropriate; and

(iii) Identification of the aircraft operators or foreign air carriers on which the individual arrested was, or was scheduled to be, a passenger or which screened that individual, as appropriate.

Subpart D—Contingency Measures**§ 1542.301 Contingency plan.**

(a) Each airport operator required to have a security program under § 1542.103(a) and (b) must adopt a contingency plan and must:

(1) Implement its contingency plan when directed by TSA.

(2) Conduct reviews and exercises of its contingency plan as specified in the security program with all persons having responsibilities under the plan.

(3) Ensure that all parties involved know their responsibilities and that all information contained in the plan is current.

(b) TSA may approve alternative implementation measures, reviews, and exercises to the contingency plan which will provide an overall level of security equal to the contingency plan under paragraph (a) of this section.

§ 1542.303 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify airport operators of security concerns. When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) Each airport operator must comply with each Security Directive issued to the airport operator within the time prescribed in the Security Directive.

(c) Each airport operator that receives a Security Directive must—

(1) Within the time prescribed in the Security Directive, verbally acknowledge receipt of the Security Directive to TSA.

(2) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(d) In the event that the airport operator is unable to implement the measures in the Security Directive, the airport operator must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval. The airport operator must submit the proposed alternative measures within the time prescribed in the Security Directive. The airport operator must not implement any alternative measures approved by TSA.

(e) Each airport operator that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

(f) Each airport operator that receives a Security Directive or an Information Circular and each person who receives information from a Security Directive or an Information Circular must:

(1) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with an operational need-to-know.

(2) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those who have an operational need to know without the prior written consent of TSA.

§ 1542.305 Public advisories.

When advised by TSA, each airport operator must prominently display and maintain in public areas information concerning foreign airports that, in the judgment of the Secretary of Transportation, do not maintain and administer effective security measures. This information must be posted in the manner specified in the security program and for such a period of time determined by the Secretary of Transportation.

§ 1542.307 Incident management.

(a) Each airport operator must establish procedures to evaluate bomb threats, threats of sabotage, aircraft piracy, and other unlawful interference to civil aviation operations.

(b) Immediately upon direct or referred receipt of a threat of any of the incidents described in paragraph (a) of this section, each airport operator must—

(1) Evaluate the threat in accordance with its security program;

(2) Initiate appropriate action as specified in the Airport Emergency Plan under 14 CFR 139.325; and

(3) Immediately notify TSA of acts, or suspected acts, of unlawful interference to civil aviation operations, including specific bomb threats to aircraft and airport facilities.

(c) Airport operators required to have a security program under § 1542.103(c) but not subject to 14 CFR part 139, must develop emergency response procedures to incidents of threats identified in paragraph (a) of this section.

(d) To ensure that all parties know their responsibilities and that all procedures are current, at least once every 12 calendar months each airport operator must review the procedures required in paragraphs (a) and (b) of this section with all persons having responsibilities for such procedures.

6. Add new part 1544 to Chapter XII, Subchapter C.

PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

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Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

Subpart A—General

§ 1544.1 Applicability of this part.

(a) This part prescribes aviation security rules governing the following:

(1) The operations of aircraft operators holding operating certificates under 14 CFR part 119 for scheduled passenger operations, public charter passenger operations, private charter passenger operations, and other aircraft operators

adopting and obtaining approval of an aircraft operator security program.

(2) Each law enforcement officer flying armed aboard an aircraft operated by an aircraft operator described in paragraph (a)(1) of this section.

(3) Each aircraft operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular issued by TSA.

(b) As used in this part, "aircraft operator" means an aircraft operator subject to this part as described in § 1544.101.

§ 1544.3 TSA inspection authority.

(a) Each aircraft operator must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each aircraft operator must provide evidence of compliance with this part and its security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOA's, and SIDA's without access media or identification media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) At the request of TSA and the completion of SIDA training as required in a security program, each aircraft operator must promptly issue to TSA personnel access and identification media to provide TSA personnel with unescorted access to, and movement within, areas controlled by the aircraft operator under an exclusive area agreement.

Subpart B—Security Program

§ 1544.101 Adoption and implementation.

(a) *Full program.* Each aircraft operator must carry out subparts C, D, and E of this part and must adopt and carry out a security program that meets the requirements of § 1544.103 for each of the following operations:

(1) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of 61 or more seats.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of 60 or fewer seats when

passengers are enplaned from or deplaned into a sterile area.

(b) *Partial program—adoption.* Each aircraft operator must carry out the requirements specified in paragraph (c) of this section for each of the following operations:

(1) A scheduled passenger or public charter passenger operation with an aircraft having a passenger-seating configuration of 31 or more but 60 or fewer seats that does not enplane from or deplane into a sterile area.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger-seating configuration of 60 or fewer seats engaged in operations to, from, or outside the United States that does not enplane from or deplane into a sterile area.

(c) *Partial program—content.* For operations described in paragraph (b) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103(c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.235, 1544.301, 1544.303, and 1544.305.

(2) Such other provisions of subparts C, D, and E of this part as TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E of this part when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(d) [Reserved]

(e) [Reserved]

(f) *Private charter program.* Each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.211, 1544.213, 1544.215, 1544.217, 1544.219, 1544.229, 1544.233, 1544.235, 1544.303, and 1544.305, and subpart E of this part and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter operation in which passengers are enplaned from or deplaned into a sterile area.

(g) *Limited program.* TSA may approve a security program after receiving a request by an aircraft operator, holding a certificate under 14 CFR part 119 other than one identified in paragraph (a), (b), or (c) of this section. The aircraft operator must—

(1) Carry out selected provisions of subparts C, D, and E of this part,

(2) Carry out § 1544.305, as specified in its security program, and

(3) Adopt and carry out a security program that meets the applicable requirements of § 1544.103(c).

§ 1544.103 Form, content, and availability.

(a) *General requirements.* Each security program must:

(1) Provide for the safety of persons and property traveling on flights provided by the aircraft operator against acts of criminal violence and air piracy, and the introduction of explosives, incendiaries, or weapons aboard an aircraft.

(2) Be in writing and signed by the aircraft operator or any person delegated authority in this matter.

(3) Be approved by TSA.

(b) *Availability.* Each aircraft operator having a security program must:

(1) Maintain an original copy of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at each airport served. An electronic version of the program is adequate.

(3) Make a copy of the security program available for inspection upon request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in the security program to persons with a need-to-know as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

(c) *Content.* The security program must include, as specified for that aircraft operator in § 1544.101, the following:

(1) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.201 regarding the acceptance and screening of individuals and their accessible property.

(2) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.203 regarding the acceptance and screening of checked baggage.

(3) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.205 regarding the acceptance and screening of cargo.

(4) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.207 regarding the screening of individuals and property.

(5) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.209 regarding the use of metal detection devices.

(6) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.211 regarding the use of x-ray systems.

(7) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.213 regarding the use of explosives detection systems.

(8) The procedures used to comply with the requirements of § 1544.215 regarding the responsibilities of security coordinators. The names of the Aircraft Operator Security Coordinator (AOSC) and any alternate, and the means for contacting the AOSC(s) on a 24-hour basis, as provided in § 1544.215.

(9) The procedures used to comply with the requirements of § 1544.217 regarding the requirements for law enforcement personnel.

(10) The procedures used to comply with the requirements of § 1544.219 regarding carriage of accessible weapons.

(11) The procedures used to comply with the requirements of § 1544.221 regarding carriage of prisoners under the control of armed law enforcement officers.

(12) The procedures used to comply with the requirements of § 1544.223 regarding transportation of Federal Air Marshals.

(13) The procedures and description of the facilities and equipment used to perform the aircraft and facilities control function specified in § 1544.225.

(14) The specific locations where the air carrier has entered into an exclusive area agreement under § 1544.227.

(15) The procedures used to comply with the applicable requirements of § 1544.229 regarding fingerprint-based criminal history record checks.

(16) The procedures used to comply with the requirements of § 1544.231 regarding personnel identification systems.

(17) The procedures and syllabi used to accomplish the training required under § 1544.233.

(18) The procedures and syllabi used to accomplish the training required under § 1544.235.

(19) An aviation security contingency plan as specified under § 1544.301.

(20) The procedures used to comply with the requirements of § 1544.303 regarding bomb and air piracy threats.

§ 1544.105 Approval and amendments.

(a) *Initial approval of security program.* Unless otherwise authorized by TSA, each aircraft operator required to have a security program under this part must submit its proposed security program to the designated official for approval at least 90 days before the intended date of passenger operations. The proposed security program must meet the requirements applicable to its operation as described in § 1544.101.

Such requests will be processed as follows:

(1) The designated official, within 30 days after receiving the proposed aircraft operator security program, will either approve the program or give the aircraft operator written notice to modify the program to comply with the applicable requirements of this part.

(2) The aircraft operator may either submit a modified security program to the designated official for approval, or petition the Under Secretary to reconsider the notice to modify within 30 days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an aircraft operator.* An aircraft operator may submit a request to TSA to amend its security program as follows:

(1) The request for an amendment must be filed with the designated official at least 45 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to an aircraft operator security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 30 days after receiving a denial, the aircraft operator may petition the Under Secretary to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any aircraft operator may submit a group proposal for an amendment that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, TSA may amend a security program as follows:

(1) The designated official notifies the aircraft operator, in writing, of the proposed amendment, fixing a period of not less than 30 days within which the aircraft operator may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the aircraft operator of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 days after the aircraft operator receives the notice of amendment, unless the aircraft operator petitions the Under Secretary to reconsider no later than 15 days before the effective date of the amendment. The aircraft operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph (c) of this section, effective without stay on the date the aircraft operator receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The aircraft operator may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effective date of the emergency amendment.

Subpart C—Operations**§ 1544.201 Acceptance and screening of individuals and accessible property.**

(a) *Preventing or deterring the carriage of any explosive, incendiary, or deadly or dangerous weapon.* Each aircraft operator must use the measures in its security program to prevent or deter the carriage of any weapon, explosive, or incendiary on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

(b) *Screening of individuals and accessible property.* Except as provided in its security program, each aircraft operator must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in § 1544.207.

(c) *Refusal to transport.* Each aircraft operator must deny entry into a sterile area and must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Prohibitions on carrying a weapon, explosive, or incendiary.* Except as provided in §§ 1544.219, 1544.221, and 1544.223, no aircraft operator may permit any individual to have a weapon, explosive, or incendiary, on or about the individual's person or accessible property when onboard an aircraft.

(e) *Staffing.* Each aircraft operator must staff its security screening checkpoints with supervisory and non-supervisory personnel in accordance with the standards specified in its security program.

§ 1544.203 Acceptance and screening of checked baggage.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Acceptance.* Each aircraft operator must ensure that checked baggage carried in the aircraft is received by its authorized aircraft operator representative.

(c) *Screening of checked baggage.* Except as provided in its security

program, each aircraft operator must ensure that all checked baggage is inspected for explosives and incendiaries before loading it on its aircraft, in accordance with § 1544.207.

(d) *Control.* Each aircraft operator must use the procedures in its security program to control checked baggage that it accepts for transport on an aircraft, in a manner that:

(1) Prevents the unauthorized carriage of any explosive or incendiary aboard the aircraft.

(2) Prevents access by persons other than an aircraft operator employee or its agent.

(e) *Refusal to transport.* Each aircraft operator must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

(f) *Firearms in checked baggage.* No aircraft operator may knowingly permit any person to transport in checked baggage:

(1) Any loaded firearm(s).

(2) Any unloaded firearm(s) unless—

(i) The passenger declares to the aircraft operator, either orally or in writing before checking the baggage that any firearm carried in the baggage is unloaded;

(ii) The firearm is carried in a hard-sided container;

(iii) The container in which it is carried is locked, and only the individual checking the baggage retains the key or combination; and

(iv) The checked baggage containing the firearm is carried in an area that is inaccessible to passengers, and is not carried in the flightcrew compartment.

(3) Any unauthorized explosive or incendiary.

(g) *Ammunition.* This section does not prohibit the carriage of ammunition in checked baggage or in the same container as a firearm. Title 49 CFR part 175 provides additional requirements governing carriage of ammunition on aircraft.

§ 1544.205 Acceptance and screening of cargo.

(a) *General requirements.* Each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of unauthorized explosives or incendiaries in cargo onboard a passenger aircraft.

(b) *Screening of cargo baggage.* Each aircraft operator must ensure that, as required in its security program, cargo is inspected for explosives and incendiaries before loading it on its aircraft in accordance with § 1544.207.

(c) *Control.* Each aircraft operator must use the procedures in its security program to control cargo that it accepts for transport on an aircraft in a manner that:

(1) Prevents the carriage of any unauthorized explosive or incendiary aboard the aircraft.

(2) Prevents access by persons other than an aircraft operator employee or its agent.

(d) *Refusal to transport.* Each aircraft operator must refuse to transport any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

§ 1544.207 Screening of individuals and property.

(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* Each aircraft operator must ensure that the individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

(c) *Aircraft operator conducting screening.* Each aircraft operator must use the measures in its security program and in subpart E of this part to inspect the individual or property. This paragraph does not apply at locations identified in paragraphs (b) and (d) of this section.

(d) *Locations outside the United States at which the foreign government conducts screening.* Each aircraft operator must ensure that all individuals and property have been inspected by the foreign government. This paragraph applies when the host government is conducting screening using government employees or when using companies under contract with the government.

§ 1544.209 Use of metal detection devices.

(a) No aircraft operator may use a metal detection device within the United States or under the aircraft operator's operational control outside the United States to inspect persons, unless specifically authorized under a security program under this part. No aircraft operator may use such a device contrary to its security program.

(b) Metal detection devices must meet the calibration standards established by TSA.

§ 1544.211 Use of X-ray systems.

(a) *TSA authorization required.* No aircraft operator may use any X-ray system within the United States or under the aircraft operator's operational control outside the United States to inspect accessible property or checked baggage, unless specifically authorized under its security program. No aircraft operator may use such a system in a manner contrary to its security program. TSA authorizes aircraft operators to use X-ray systems for inspecting accessible property or checked baggage under a security program if the aircraft operator shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792–88 (Reapproved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No aircraft operator may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No aircraft operator may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the aircraft operator shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No aircraft operator may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1)

At locations at which an aircraft operator uses an X-ray system to inspect accessible property the aircraft operator must ensure that a sign is posted in a conspicuous place at the screening checkpoint. At locations outside the United States at which a foreign government uses an X-ray system to inspect accessible property the aircraft operator must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which an aircraft operator or TSA uses an X-ray system to inspect checked baggage the aircraft operator must ensure that a sign is posted in a conspicuous place where the aircraft operator accepts checked baggage.

(3) The signs required under this paragraph (e) must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each aircraft operator must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The aircraft operator's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792–88 (Reapproved 1993), "Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas," is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792–88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT's

Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA–2001–8725). Copies of the standard may be examined also at the Office of the Federal Register, 800 North Capitol St., NW, Suite 700, Washington, DC. In addition, ASTM Standard F792–88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

(h) *Duty time limitations.* Each aircraft operator must comply with the X-ray operator duty time limitations specified in its security program.

§ 1544.213 Use of explosives detection systems.

(a) *Use of explosive detection equipment.* If TSA so requires by an amendment to an aircraft operator's security program, each aircraft operator required to conduct screening under a security program must use an explosives detection system approved by TSA to screen checked baggage on international flights.

(b) *Signs and inspection of photographic equipment and film.* (1) At locations at which an aircraft operator or TSA uses an explosives detection system that uses X-ray technology to inspect checked baggage the aircraft operator must ensure that a sign is posted in a conspicuous place where the aircraft operator accepts checked baggage. The sign must notify individuals that such items are being inspected by an explosives detection system and advise them to remove all X-ray, scientific, and high-speed film from checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an explosives detection system.

(2) If the explosives detection system exposes any checked baggage to more than one milliroentgen during the inspection the aircraft operator must post a sign which advises individuals to remove film of all kinds from their articles before inspection. If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an explosives detection system.

§ 1544.215 Security coordinators.

(a) *Aircraft Operator Security Coordinator.* Each aircraft operator must designate and use an Aircraft Operator Security Coordinator (AOSC). The AOSC and any alternates must be appointed at the corporate level and must serve as the aircraft operator's primary contact for security-related

activities and communications with TSA, as set forth in the security program. Either the AOSC, or an alternate AOSC, must be available on a 24-hour basis.

(b) *Ground Security Coordinator.* Each aircraft operator must designate and use a Ground Security Coordinator for each domestic and international flight departure to carry out the Ground Security Coordinator duties specified in the aircraft operator's security program. The Ground Security Coordinator at each airport must conduct the following daily:

(1) A review of all security-related functions for which the aircraft operator is responsible, for effectiveness and compliance with this part, the aircraft operator's security program, and applicable Security Directives.

(2) Immediate initiation of corrective action for each instance of noncompliance with this part, the aircraft operator's security program, and applicable Security Directives. At foreign airports where such security measures are provided by an agency or contractor of a host government, the aircraft operator must notify TSA for assistance in resolving noncompliance issues.

(c) *In-flight Security Coordinator.* Each aircraft operator must designate and use the pilot in command as the In-flight Security Coordinator for each domestic and international flight to perform duties specified in the aircraft operator's security program.

§ 1544.217 Law enforcement personnel.

(a) The following applies to operations at airports within the United States that are not required to hold a security program under part 1542 of this chapter.

(1) For operations described in § 1544.101(a) each aircraft operator must provide for law enforcement personnel meeting the qualifications and standards specified in §§ 1542.215 and 1542.217 of this chapter.

(2) For operations described in § 1544.101(b) or (c) each aircraft operator must—

(i) Arrange for law enforcement personnel meeting the qualifications and standards specified in § 1542.217 of this chapter to be available to respond to an incident; and

(ii) Provide its employees, including crewmembers, current information regarding procedures for obtaining law enforcement assistance at that airport.

(b) The following applies to operations at airports required to hold security programs under part 1542 of this chapter. For operations described in

§ 1544.101(c), each aircraft operator must—

(1) Arrange with TSA and the airport operator, as appropriate, for law enforcement personnel meeting the qualifications and standards specified in § 1542.217 of this chapter to be available to respond to incidents, and

(2) Provide its employees, including crewmembers, current information regarding procedures for obtaining law enforcement assistance at that airport.

§ 1544.219 Carriage of accessible weapons.

(a) *Flights for which screening is conducted.* The provisions of § 1544.201(d), with respect to accessible weapons, do not apply to a law enforcement officer (LEO) aboard a flight for which screening is required if the requirements of this section are met. Paragraph (a) of this section does not apply to a Federal Air Marshal on duty status under § 1544.223.

(1) Unless otherwise authorized by TSA, the armed LEO must meet the following requirements:

(i) Be a Federal law enforcement officer or a full-time municipal, county, or state law enforcement officer who is a direct employee of a government agency.

(ii) Be sworn and commissioned to enforce criminal statutes or immigration statutes.

(iii) Be authorized by the employing agency to have the weapon in connection with assigned duties.

(iv) Has completed the training program "Law Enforcement Officers Flying Armed."

(2) In addition to the requirements of paragraph (a)(1) of this section, the armed LEO must have a need to have the weapon accessible from the time he or she would otherwise check the weapon until the time it would be claimed after deplaning. The need to have the weapon accessible must be determined by the employing agency, department, or service and be based on one of the following:

(i) The provision of protective duty, for instance, assigned to a principal or advance team, or on travel required to be prepared to engage in a protective function.

(ii) The conduct of a hazardous surveillance operation.

(iii) On official travel required to report to another location, armed and prepared for duty.

(iv) Employed as a Federal LEO, whether or not on official travel, and armed in accordance with an agency-wide policy governing that type of travel established by the employing agency by directive or policy statement.

(v) Control of a prisoner, in accordance with § 1544.221, or an armed LEO on a round trip ticket returning from escorting, or traveling to pick up, a prisoner.

(vi) TSA Federal Air Marshal on duty status.

(3) The armed LEO must comply with the following notification requirements:

(i) All armed LEOs must notify the aircraft operator of the flight(s) on which he or she needs to have the weapon accessible at least 1 hour, or in an emergency as soon as practicable, before departure.

(ii) Identify himself or herself to the aircraft operator by presenting credentials that include a clear full-face picture, the signature of the armed LEO, and the signature of the authorizing official of the agency, service, or department or the official seal of the agency, service, or department. A badge, shield, or similar device may not be used, or accepted, as the sole means of identification.

(iii) If the armed LEO is a State, county, or municipal law enforcement officer, he or she must present an original letter of authority, signed by an authorizing official from his or her employing agency, service or department, confirming the need to travel armed and detailing the itinerary of the travel while armed.

(iv) If the armed LEO is an escort for a foreign official then this paragraph (a)(3) may be satisfied by a State Department notification.

(4) The aircraft operator must do the following:

(i) Obtain information or documentation required in paragraphs (a)(3)(ii), (iii), and (iv) of this section.

(ii) Advise the armed LEO, before boarding, of the aircraft operator's procedures for carrying out this section.

(iii) Have the LEO confirm he/she has completed the training program "Law Enforcement Officers Flying Armed" as required by TSA, unless otherwise authorized by TSA.

(iv) Ensure that the identity of the armed LEO is known to the appropriate personnel who are responsible for security during the boarding of the aircraft.

(v) Notify the pilot in command and other appropriate crewmembers, of the location of each armed LEO aboard the aircraft. Notify any other armed LEO of the location of each armed LEO, including FAM's. Under circumstances described in the security program, the aircraft operator must not close the doors until the notification is complete.

(vi) Ensure that the information required in paragraphs (a)(3)(i) and (ii) of this section is furnished to the flight

crew of each additional connecting flight by the Ground Security Coordinator or other designated agent at each location.

(b) *Flights for which screening is not conducted.* The provisions of § 1544.201(d), with respect to accessible weapons, do not apply to a LEO aboard a flight for which screening is not required if the requirements of paragraphs (a)(1), (3), and (4) of this section are met.

(c) *Alcohol.* (1) No aircraft operator may serve any alcoholic beverage to an armed LEO.

(2) No armed LEO may:

(i) Consume any alcoholic beverage while aboard an aircraft operated by an aircraft operator.

(ii) Board an aircraft armed if they have consumed an alcoholic beverage within the previous 8 hours.

(d) *Location of weapon.* (1) Any individual traveling aboard an aircraft while armed must at all times keep their weapon:

(i) Concealed and out of view, either on their person or in immediate reach, if the armed LEO is not in uniform.

(ii) On their person, if the armed LEO is in uniform.

(2) No individual may place a weapon in an overhead storage bin.

§ 1544.221 Carriage of prisoners under the control of armed law enforcement officers.

(a) This section applies as follows:

(1) This section applies to the transport of prisoners under the escort of an armed law enforcement officer.

(2) This section does not apply to the carriage of passengers under voluntary protective escort.

(3) This section does not apply to the escort of non-violent detainees of the Immigration and Naturalization Service. This section does not apply to individuals who may be traveling with a prisoner and armed escort, such as the family of a deportee who is under armed escort.

(b) For the purpose of this section:

(1) "High risk prisoner" means a prisoner who is an exceptional escape risk, as determined by the law enforcement agency, and charged with, or convicted of, a violent crime.

(2) "Low risk prisoner" means any prisoner who has not been designated as "high risk."

(c) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft for which screening is required unless, in addition to the requirements in § 1544.219, the following requirements are met:

(1) The agency responsible for control of the prisoner has determined whether

the prisoner is considered a high risk or a low risk.

(2) Unless otherwise authorized by TSA, no more than one high risk prisoner may be carried on the aircraft.

(d) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft for which screening is required unless the following staffing requirements are met:

(1) A minimum of one armed law enforcement officer must control a low risk prisoner on a flight that is scheduled for 4 hours or less. One armed law enforcement officer may control no more than two low risk prisoners.

(2) A minimum of two armed law enforcement officers must control a low risk prisoner on a flight that is scheduled for more than 4 hours. Two armed law enforcement officers may control no more than two low risk prisoners.

(3) For high-risk prisoners:

(i) For one high-risk prisoner on a flight: A minimum of two armed law enforcement officers must control a high risk prisoner. No other prisoners may be under the control of those two armed law enforcement officers.

(ii) If TSA has authorized more than one high-risk prisoner to be on the flight under paragraph (c)(2) of this section, a minimum of one armed law enforcement officer for each prisoner and one additional armed law enforcement officer must control the prisoners. No other prisoners may be under the control of those armed law enforcement officers.

(e) An armed law enforcement officer who is escorting a prisoner—

(1) Must notify the aircraft operator at least 24 hours before the scheduled departure, or, if that is not possible as far in advance as possible of the following—

(i) The identity of the prisoner to be carried and the flight on which it is proposed to carry the prisoner; and

(ii) Whether or not the prisoner is considered to be a high risk or a low risk.

(2) Must arrive at the check-in counter at least 1 hour before to the scheduled departure.

(3) Must assure the aircraft operator, before departure, that each prisoner under the control of the officer(s) has been searched and does not have on or about his or her person or property anything that can be used as a weapon.

(4) Must be seated between the prisoner and any aisle.

(5) Must accompany the prisoner at all times, and keep the prisoner under control while aboard the aircraft.

(f) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft unless the following are met:

(1) When practicable, the prisoner must be boarded before any other boarding passengers and deplaned after all other deplaning passengers.

(2) The prisoner must be seated in a seat that is neither located in any passenger lounge area nor located next to or directly across from any exit and, when practicable, the aircraft operator should seat the prisoner in the rearmost seat of the passenger cabin.

(g) Each armed law enforcement officer escorting a prisoner and each aircraft operator must ensure that the prisoner is restrained from full use of his or her hands by an appropriate device that provides for minimum movement of the prisoner's hands, and must ensure that leg irons are not used.

(h) No aircraft operator may provide a prisoner under the control of a law enforcement officer—

(1) With food or beverage or metal eating utensils unless authorized to do so by the armed law enforcement officer.

(2) With any alcoholic beverage.

§ 1544.223 Transportation of Federal Air Marshals.

(a) A Federal Air Marshal on duty status may have a weapon accessible while aboard an aircraft for which screening is required.

(b) Each aircraft operator must carry Federal Air Marshals, in the number and manner specified by TSA, on each scheduled passenger operation, and public charter passenger operation designated by TSA.

(c) Each Federal Air Marshal must be carried on a first priority basis and without charge while on duty, including positioning and repositioning flights. When a Federal Air Marshal is assigned to a scheduled flight that is canceled for any reason, the aircraft operator must carry that Federal Air Marshal without charge on another flight as designated by TSA.

(d) Each aircraft operator must assign the specific seat requested by a Federal Air Marshal who is on duty status. If another LEO is assigned to that seat or requests that seat, the aircraft operator must inform the Federal Air Marshal. The Federal Air Marshal will coordinate seat assignments with the other LEO.

(e) The Federal Air Marshal identifies himself or herself to the aircraft operator by presenting credentials that include a clear, full-face picture, the signature of the Federal Air Marshal, and the signature of the FAA Administrator. A badge, shield, or similar device may not

be used or accepted as the sole means of identification.

(f) The requirements of § 1544.219(a) do not apply for a Federal Air Marshal on duty status.

(g) Each aircraft operator must restrict any information concerning the presence, seating, names, and purpose of Federal Air Marshals at any station or on any flight to those persons with an operational need to know.

(h) Law enforcement officers authorized to carry a weapon during a flight will be contacted directly by a Federal Air Marshal who is on that same flight.

§ 1544.225 Security of aircraft and facilities.

Each aircraft operator must use the procedures included, and the facilities and equipment described, in its security program to perform the following control functions with respect to each aircraft operation:

(a) Prevent unauthorized access to areas controlled by the aircraft operator under an exclusive area agreement in accordance with § 1542.111 of this chapter.

(b) Prevent unauthorized access to each aircraft.

(c) Conduct a security inspection of each aircraft before placing it into passenger operations if access has not been controlled in accordance with the aircraft operator security program and as otherwise required in the security program.

§ 1544.227 Exclusive area agreement.

(a) An aircraft operator that has entered into an exclusive area agreement with an airport operator, under § 1542.111 of this chapter must carry out that exclusive area agreement.

(b) The aircraft operator must list in its security program the locations at which it has entered into exclusive area agreements with an airport operator.

(c) The aircraft operator must provide the exclusive area agreement to TSA upon request.

(d) Any exclusive area agreements in effect on November 14, 2001, must meet the requirements of this section and § 1542.111 of this chapter no later than November 14, 2002.

§ 1544.229 Fingerprint-based criminal history records checks (CHRC): Unescorted access authority, authority to perform screening functions, and authority to perform checked baggage or cargo functions.

(a) *Scope.* The following individuals are within the scope of this section. Unescorted access authority, authority to perform screening functions, and authority to perform checked baggage or

cargo functions, are collectively referred to as “covered functions.”

(1) *New unescorted access authority or authority to perform screening functions.* (i) Each employee or contract employee covered under a certification made to an airport operator on or after December 6, 2001, pursuant to 14 CFR 107.209(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001) or § 1542.209(n) of this chapter.

(ii) Each individual issued on or after December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 1542.205 of this chapter (referred to as “unescorted access authority”).

(iii) Each individual, on or after December 6, 2001, granted authority to perform the following screening functions at locations within the United States (referred to as “authority to perform screening functions”)—

(A) Screening passengers or property that will be carried in a cabin of an aircraft of an aircraft operator required to screen passengers under this part.

(B) Serving as an immediate supervisor (checkpoint security supervisor (CSS)), and the next supervisory level (shift or site supervisor), to those individuals described in paragraph (a)(1)(iii)(A) of this section.

(2) *Current unescorted access authority or authority to perform screening functions.* (i) Each employee or contract employee covered under a certification made to an airport operator pursuant to 14 CFR 107.31(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), or pursuant to 14 CFR 107.209(n) in effect prior to December 6, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001).

(ii) Each individual who holds on December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 1542.205 of this chapter.

(iii) Each individual who is performing on December 6, 2001, a screening function identified in paragraph (a)(1)(iii) of this section.

(3) *New authority to perform checked baggage or cargo functions.* Each individual who, on and after February 17, 2002, is granted the authority to perform the following checked baggage and cargo functions (referred to as “authority to perform checked baggage

or cargo functions”), except for individuals described in paragraph (a)(1) of this section:

(i) Screening of checked baggage or cargo of an aircraft operator required to screen passengers under this part, or serving as an immediate supervisor of such an individual.

(ii) Accepting checked baggage for transport on behalf of an aircraft operator required to screen passengers under this part.

(4) *Current authority to perform checked baggage or cargo functions.* Each individual who holds on February 17, 2002, authority to perform checked baggage or cargo functions, except for individuals described in paragraph (a)(1) or (2) of this section.

(b) *Individuals seeking unescorted access authority, authority to perform screening functions, or authority to perform checked baggage or cargo functions.* Each aircraft operator must ensure that each individual identified in paragraph (a)(1) or (3) of this section has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section, before—

(1) Making a certification to an airport operator regarding that individual;

(2) Issuing an aircraft operator identification medium to that individual;

(3) Authorizing that individual to perform screening functions; or

(4) Authorizing that individual to perform checked baggage or cargo functions.

(c) *Individuals who have not had a CHRC.* (1) *Deadline for conducting a CHRC.* Each aircraft operator must ensure that, on and after December 6, 2002:

(i) No individual retains unescorted access authority, whether obtained as a result of a certification to an airport operator under 14 CFR 107.31(n) in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), or under 14 CFR 107.209(n) in effect prior to December 6, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), or obtained as a result of the issuance of an aircraft operator's identification media, unless the individual has been subject to a fingerprint-based CHRC for unescorted access authority under this part.

(ii) No individual continues to have authority to perform screening functions described in paragraph (a)(1)(iii) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(iii) No individual continues to have authority to perform checked baggage or

cargo functions described in paragraph (a)(3) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(2) *Lookback for individuals with unescorted access authority or authority to perform screening functions.* When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after December 6, 1991, the aircraft operator must immediately suspend that individual's unescorted access authority or authority to perform screening functions.

(3) *Lookback for individuals with authority to perform checked baggage or cargo functions.* When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after February 17, 1992, the aircraft operator must immediately suspend that individual's authority to perform checked baggage or cargo functions.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty by reason of insanity, of any of the disqualifying crimes listed in this paragraph in any jurisdiction during the 10 years before the date of the individual's application for authority to perform covered functions, or while the individual has authority to perform covered functions. The disqualifying criminal offenses are as follows:

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or

misrepresentation;

(vi) Possession or distribution of

stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the aircraft operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1544.229 impose a continuing obligation to disclose to the aircraft operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has authority to perform a covered function.

(iv) A statement reading, "The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)"

(v) A line for the printed name of the individual.

(vi) A line for the individual's signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The aircraft operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The aircraft operator must:

(i) Advise the individual that a copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) Identify a point of contact if the individual has questions about the results of the CHRC.

(5) The aircraft operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation by the aircraft operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Aircraft operators must pay for all fingerprints in a form and manner approved by TSA. The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available through the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual described in paragraph (a)(1) or (3) of this section discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting authority to perform a covered function. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a)(2) or (4) of this section discloses an arrest for any disqualifying criminal offense without

indicating a disposition, the aircraft operator must suspend the individual's authority to perform a covered function not later than 45 days after obtaining the CHRC unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, authority to perform a covered function; and individuals who are covered by a certification from an aircraft operator under § 1542.209(n) of this chapter. The aircraft operator may not make determinations for individuals described in § 1542.209(a) of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny authority to an individual described in paragraph (a)(1) or (3) of this section, the aircraft operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining authority to perform a covered function and provide the individual with a copy of the FBI record if he or she requests it.

(2) The aircraft operator must notify an individual that a final decision has been made to grant or deny authority to perform a covered function.

(3) Immediately following the suspension of authority to perform a covered function, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her authority, and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority or authority to perform screening functions on or after December 6, 2001; or an individual seeking authority to perform checked baggage or cargo functions on or after February 17, 2002; the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to authority to perform a covered function.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny authority to perform a covered function.

(2) For an individual with unescorted access authority or authority to perform screening functions before December 6, 2001; or an individual with authority to perform checked baggage or cargo functions before February 17, 2002; the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating authority to perform a covered function.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 1542.209 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of airport operators who are determining whether to grant unescorted access to the individual under part 1542 of this chapter when the determination is not based on the aircraft operator's certification under § 1542.209(n) of this chapter.

(3) Other aircraft operators who are determining whether to grant authority to perform a covered function under this part.

(4) Others designated by TSA.

(k) *Recordkeeping.* The aircraft operator must maintain the following information.

(1) *Investigation conducted before December 6, 2001.* The aircraft operator must maintain and control the access or employment history investigation files, including the criminal history records

results portion, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(4) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's authority to perform a covered function. When files are no longer maintained, the criminal record must be destroyed.

(l) *Continuing responsibilities.* (1) Each individual with unescorted access authority or the authority to perform screening functions on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the aircraft operator and surrender the SIDA access medium to the issuer and cease performing screening functions, as applicable.

(2) Each individual with authority to perform a covered function who has a disqualifying criminal offense must report the offense to the aircraft operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the aircraft operator indicating that an individual with authority to perform a covered function has a possible conviction for any disqualifying criminal offense in paragraph (d) of this section, the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed the aircraft operator must immediately revoke any authority to perform a covered function.

(4) Each individual with authority to perform checked baggage or cargo functions on February 17, 2002, who had a disqualifying criminal offense in paragraph (d) of this section on or after February 17, 1992, must, by March 25, 2002, report the conviction to the aircraft operator and cease performing check baggage or cargo functions.

(m) *Aircraft operator responsibility.* The aircraft operator must—

(1) Designate an individual(s) to be responsible for maintaining and controlling the employment history investigations for those whom the aircraft operator has made a certification to an airport operator under 14 CFR 107.209(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), and for those whom the aircraft operator has issued identification media that are airport-accepted. The aircraft operator must designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the employment history investigations of individuals with authority to perform screening functions whose files must be maintained at the location or station where the screener is performing his or her duties.

(3) Designate an individual(s) at appropriate locations to serve as the contact to receive notification from individuals seeking authority to perform covered functions of their intent to seek correction of their FBI criminal record.

(4) Audit the employment history investigations performed in accordance with this section and 14 CFR 108.33 in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001). The aircraft operator must set forth the audit procedures in its security program.

§ 1544.231 Airport-approved and exclusive area personnel identification systems.

(a) Each aircraft operator must establish and carry out a personnel identification system for identification media that are airport-approved, or identification media that are issued for use in an exclusive area. The system must include the following:

(1) Personnel identification media that—

(i) Convey a full face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification medium issued to that individual on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year, or sooner, as necessary to ensure the integrity and accountability of all identification media.

(v) As specified in the aircraft operator security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or unretrieved, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time. A replacement identification medium may only be issued if an individual declares in writing that the medium has been lost or stolen.

(b) The aircraft operator may request approval of a temporary identification media system that meets the standards in § 1542.211(b) of this chapter, or may arrange with the airport to use temporary airport identification media in accordance with that section.

(c) Each aircraft operator must submit a plan to carry out this section to TSA no later than May 13, 2002. Each aircraft operator must fully implement its plan no later than November 14, 2003.

§ 1544.233 Security coordinators and crewmembers, training.

(a) No aircraft operator may use any individual as a Ground Security Coordinator unless, within the preceding 12-calendar months, that individual has satisfactorily completed the security training as specified in the aircraft operator's security program.

(b) No aircraft operator may use any individual as an in-flight security coordinator or crewmember on any domestic or international flight unless, within the preceding 12-calendar months or within the time period specified in an Advanced Qualifications Program approved under SFAR 58 in 14 CFR part 121, that individual has satisfactorily completed the security training required by 14 CFR 121.417(b)(3)(v) or 135.331(b)(3)(v), and as specified in the aircraft operator's security program.

(c) With respect to training conducted under this section, whenever an individual completes recurrent training within one calendar month earlier, or one calendar month after the date it was required, that individual is considered to have completed the training in the calendar month in which it was required.

§ 1544.235 Training and knowledge for individuals with security-related duties.

(a) No aircraft operator may use any direct or contractor employee to perform any security-related duties to meet the requirements of its security program unless that individual has received training as specified in its security program including their individual responsibilities in § 1540.105 of this chapter.

(b) Each aircraft operator must ensure that individuals performing security-related duties for the aircraft operator have knowledge of the provisions of this part, applicable Security Directives and Information Circulars, the approved airport security program applicable to their location, and the aircraft operator's security program to the extent that such individuals need to know in order to perform their duties.

Subpart D—Threat and Threat Response

§ 1544.301 Contingency plan.

Each aircraft operator must adopt a contingency plan and must:

(a) Implement its contingency plan when directed by TSA.

(b) Ensure that all information contained in the plan is updated annually and that appropriate persons are notified of any changes.

(c) Participate in an airport-sponsored exercise of the airport contingency plan or its equivalent, as provided in its security program.

§ 1544.303 Bomb or air piracy threats.

(a) *Flight: Notification.* Upon receipt of a specific and credible threat to the security of a flight, the aircraft operator must—

(1) Immediately notify the ground and in-flight security coordinators of the threat, any evaluation thereof, and any measures to be applied; and

(2) Ensure that the in-flight security coordinator notifies all crewmembers of the threat, any evaluation thereof, and any measures to be applied; and

(3) Immediately notify the appropriate airport operator.

(b) *Flight: Inspection.* Upon receipt of a specific and credible threat to the security of a flight, each aircraft operator must attempt to determine whether or not any explosive or incendiary is present by doing the following:

(1) Conduct a security inspection on the ground before the next flight or, if the aircraft is in flight, immediately after its next landing.

(2) If the aircraft is on the ground, immediately deplane all passengers and submit that aircraft to a security search.

(3) If the aircraft is in flight, immediately advise the pilot in

command of all pertinent information available so that necessary emergency action can be taken.

(c) *Ground facility.* Upon receipt of a specific and credible threat to a specific ground facility at the airport, the aircraft operator must:

(1) Immediately notify the appropriate airport operator.

(2) Inform all other aircraft operators and foreign air carriers at the threatened facility.

(3) Conduct a security inspection.

(d) *Notification.* Upon receipt of any bomb threat against the security of a flight or facility, or upon receiving information that an act or suspected act of air piracy has been committed, the aircraft operator also must notify TSA. If the aircraft is in airspace under other than U.S. jurisdiction, the aircraft operator must also notify the appropriate authorities of the State in whose territory the aircraft is located and, if the aircraft is in flight, the appropriate authorities of the State in whose territory the aircraft is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

§ 1544.305 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify aircraft operators of security concerns. When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) Each aircraft operator required to have an approved aircraft operator security program must comply with each Security Directive issued to the aircraft operator by TSA, within the time prescribed in the Security Directive for compliance.

(c) Each aircraft operator that receives a Security Directive must—

(1) Within the time prescribed in the Security Directive, verbally acknowledge receipt of the Security Directive to TSA.

(2) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(d) In the event that the aircraft operator is unable to implement the measures in the Security Directive, the aircraft operator must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval. The aircraft operator must submit the proposed alternative

measures within the time prescribed in the Security Directive. The aircraft operator must implement any alternative measures approved by TSA.

(e) Each aircraft operator that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

(f) Each aircraft operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular must:

(1) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with an operational need-to-know.

(2) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those with an operational need-to-know without the prior written consent of TSA.

Subpart E—Screener Qualifications When the Aircraft Operator Performs Screening

§ 1544.401 Applicability of this subpart.

(a) *Aircraft operator screening.* This subpart applies when the aircraft operator is conducting inspections as provided in § 1544.207(c).

(b) *Current screeners.* As used in this subpart, “current screener” means each individual who first performed screening functions before the date the aircraft operator must begin use of the new screener training program provided by TSA. Until November 19, 2002, each current screener must comply with § 1544.403. Until November 19, 2002, each aircraft operator must apply § 1544.403 for each current screener. On and after November 19, 2002, each such current screener must comply with §§ 1544.405 through 1544.411, and each aircraft operator must comply with §§ 1544.405 through 1544.411 for such individuals.

(c) *New screeners.* As used in this subpart, “new screener” means each individual who first performs screening functions on and after the date the aircraft operator must begin use of the new screener training program provided by TSA. Each aircraft operator must apply §§ 1544.405 through 1544.411 for individuals who first perform screening functions for new screeners.

§ 1544.403 Current screeners.

This section applies to current screeners. This section no longer applies on and after November 19, 2002.

(a) No aircraft operator may use any person to perform any screening function, unless that person has:

(1) A high school diploma, a General Equivalency Diploma, or a combination of education and experience that the aircraft operator has determined to have equipped the person to perform the duties of the position.

(2) Basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(i) Screeners operating X-ray equipment must be able to distinguish on the X-ray monitor the appropriate imaging standard specified in the aircraft operator's security program. Wherever the X-ray system displays colors, the operator must be able to perceive each color;

(ii) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies;

(iii) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment;

(iv) Screeners performing physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing; and

(v) Screeners who perform pat-downs or hand-held metal detector searches of persons must have sufficient dexterity and capability to thoroughly conduct those procedures over a person's entire body.

(3) The ability to read, speak, and write English well enough to—

(i) Carry out written and oral instructions regarding the proper performance of screening duties;

(ii) Read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

(iii) Provide direction to and understand and answer questions from English-speaking persons undergoing screening; and

(iv) Write incident reports and statements and log entries into security records in the English language.

(4) Satisfactorily completed all initial, recurrent, and appropriate specialized training required by the aircraft operator's security program, except as

provided in paragraph (b) of this section.

(b) The aircraft operator may use a person who has not completed the training required by paragraph (a)(4) of this section during the on-the-job portion of training to perform security functions provided that the person:

(1) Is closely supervised, and

(2) Does not make independent judgments as to whether persons or property may enter a sterile area or aircraft without further inspection.

(c) No aircraft operator must use a person to perform a screening function after that person has failed an operational test related to that function until that person has successfully completed the remedial training specified in the aircraft operator's security program.

(d) Each aircraft operator must ensure that a Ground Security Coordinator conducts and documents an annual evaluation of each individual assigned screening duties and may continue that individual's employment in a screening capacity only upon the determination by the Ground Security Coordinator that the individual:

(1) Has not suffered a significant diminution of any physical ability required to perform a screening function since the last evaluation of those abilities;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in its security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

(e) Paragraphs (a) through (d) of this section do not apply to those screening functions conducted outside the United States over which the aircraft operator does not have operational control. In the event the aircraft operator is unable to implement paragraphs (a) through (d) of this section for screening functions outside the United States, the aircraft operator must notify TSA of those aircraft operator stations so affected.

(f) At locations outside the United States where the aircraft operator has operational control over a screening function, the aircraft operator may use screeners who do not meet the requirements of paragraph (a)(3) of this section, provided that at least one representative of the aircraft operator who has the ability to functionally read and speak English is present while the aircraft operator's passengers are undergoing security screening.

§ 1544.405 New screeners: Qualifications of screening personnel.

(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§ 1544.405 through 1544.411. No aircraft operator may use such an individual to perform a screening function unless that person complies with the requirements of §§ 1544.405 through 1544.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that the TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the aircraft operator's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from

English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States where the aircraft operator has operational control over a screening function, the aircraft operator may use screeners who do not meet the requirements of paragraph (f) of this section, provided that at least one representative of the aircraft operator who has the ability to functionally read and speak English is present while the aircraft operator's passengers are undergoing security screening. At such locations the aircraft operator may use screeners who are not United States citizens.

§ 1544.407 New screeners: Training, testing, and knowledge of individuals who perform screening functions.

(a) *Training required.* Before performing screening functions, an individual must have completed initial, recurrent, and appropriate specialized training as specified in this section and the aircraft operator's security program. No aircraft operator may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in § 1544.409 (b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the aircraft operator's security program.

(c) *Classroom instruction.* Each screener must complete at least 40 hours of classroom instruction or successfully complete a program that TSA determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No aircraft operator may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each aircraft operator must ensure that individuals performing as screeners, screeners-in-charge, and checkpoint security supervisors for the aircraft operator have knowledge of the provisions of this part, the aircraft operator's security program, and applicable Security Directives and Information Circulars to the extent necessary to perform their duties.

(g) *Disclosure of sensitive security information during training.* The aircraft operator may not permit a trainee to have access to sensitive security information during screener training unless a criminal history records check has successfully been completed for that individual in accordance with § 1544.229, and the individual has no disqualifying criminal offense.

§ 1544.409 New screeners: Integrity of screener tests.

(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by the TSA, no person may—

(i) Copy or intentionally remove a test under this part;

(ii) Give to another or receive from another any part or copy of that test;

(iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or

(iv) Use any material or aid during the period that the test is being given.

(2) No person may take any part of that test on behalf of another person.

(3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).

(b) *Administering and monitoring screener tests.* (1) Each aircraft operator must notify TSA of the time and location at which it will administer each screener readiness test required under § 1544.405(d).

(2) Either TSA or the aircraft operator must administer and monitor the screener readiness test. Where more than one aircraft operator or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the aircraft operators or foreign air carriers to monitor the test for a trainee who will screen at that location.

(3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the aircraft operator must provide a direct employee to administer and monitor the screener readiness test.

(4) An aircraft operator employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be

familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1544.411 New screeners: Continuing qualifications for screening personnel.

(a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment, such as impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(b) *Training not complete.* An individual who has not completed the training required by § 1544.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—

(1) Is closely supervised; and

(2) Does not make independent

judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No aircraft operator may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the aircraft operator's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall receive an annual evaluation. The aircraft operator must ensure that a Ground Security Coordinator conducts and documents an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

(1) Continues to meet all qualifications and standards required to perform a screening function;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the aircraft operator's security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

7. Add new part 1546 to Chapter XII, subchapter C.

PART 1546—FOREIGN AIR CARRIER SECURITY

Subpart A—General

Sec.

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1546.409 New screeners: Integrity of screener tests.

1546.411 New screeners: Continuing qualifications for screening personnel.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905–44907, 44914, 44916–44917, 44935–44936, 44942, 46105.

Subpart A—General

§ 1546.1 Applicability of this part.

This part prescribes aviation security rules governing the following:

(a) The operation within the United States of each foreign air carrier holding a permit issued by the Department of Transportation under 49 U.S.C. 41302 or other appropriate authority issued by the former Civil Aeronautics Board or the Department of Transportation.

(b) Each law enforcement officer flying armed aboard an aircraft operated by a foreign air carrier described in paragraph (a) of this section.

§ 1546.3 TSA inspection authority.

(a) Each foreign air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each foreign air carrier must provide evidence of compliance with this subchapter and its security program, including copies of records.

Subpart B—Security Program

§ 1546.101 Adoption and implementation.

Each foreign air carrier landing or taking off in the United States must adopt and carry out a security program, for each scheduled and public charter passenger operation, that meets the requirements of—

(a) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 61 or more seats;

(b) Section 1546.103(b) for each operation that will provide deplaned passengers access to a sterile area, or enplane passengers from a sterile area, when that access is not controlled by an aircraft operator using a security program under part 1544 of this chapter or a foreign air carrier using a security program under this part;

(c) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats for which TSA has notified the foreign air carrier in writing that a threat exists; and

(d) Section 1546.103(c) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats, when TSA has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

§ 1546.103 Form, content, and availability of security program.

(a) *General requirements.* The security program must be:

(1) Acceptable to TSA. A foreign air carrier's security program is acceptable only if TSA finds that the security program provides passengers a level of protection similar to the level of protection provided by U.S. air carriers serving the same airports. Foreign air carriers must employ procedures equivalent to those required of U.S. air carriers serving the same airport if TSA determines that such procedures are necessary to provide passengers a similar level of protection.

(2) In English unless TSA requests that the program be submitted in the official language of the foreign air carrier's country.

(b) *Content of security program.* Each security program required by § 1546.101(a), (b), or (c) must be designed to—

(1) Prevent or deter the carriage aboard airplanes of any unauthorized explosive, incendiary, or weapon on or about each individual's person or accessible property, except as provided in § 1546.201(d), through screening by

weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that checked baggage is accepted by a responsible agent of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its airplanes unless handled in accordance with the foreign air carrier's security procedures.

(c) *Law enforcement support.* Each security program required by § 1546.101(d) must include the procedures used to comply with the applicable requirements of § 1546.209 regarding law enforcement officers.

(d) *Availability.* Each foreign air carrier required to adopt and use a security program under this part must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information, as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer requests for sensitive security information by other persons to TSA.

§ 1546.105 Acceptance of and amendments to the security program.

(a) *Initial acceptance of security program.* Unless otherwise authorized by TSA, each foreign air carrier required to have a security program by this part must submit its proposed program to TSA at least 90 days before the intended date of passenger operations. TSA will notify the foreign air carrier of the security program's acceptability, or the need to modify the proposed security program for it to be acceptable under this part, within 30 days after receiving the proposed security program. The foreign air carrier may petition TSA to reconsider the notice to modify the security program within 30 days after receiving a notice to modify.

(b) *Amendment requested by a foreign air carrier.* A foreign air carrier may submit a request to TSA to amend its accepted security program as follows:

(1) The proposed amendment must be filed with the designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a foreign air carrier security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 45 calendar days after receiving a denial, the foreign air carrier may petition the Under Secretary to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any foreign air carrier may submit a group proposal for an amendment that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If the safety and the public interest require an amendment, the designated official may amend an accepted security program as follows:

(1) The designated official notifies the foreign air carrier, in writing, of the proposed amendment, fixing a period of not less than 45 calendar days within which the foreign air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the foreign air carrier of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 calendar days after the foreign air carrier receives the notice of amendment, unless the foreign air carrier petitions the Under Secretary to reconsider no later than 15 calendar days before the effective date of the amendment. The foreign air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice

and comment procedures in paragraph (c) of this section, effective without stay on the date the foreign air carrier receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The foreign air carrier may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effectiveness of the emergency amendment.

Subpart C—Operations

§ 1546.201 Acceptance and screening of individuals and accessible property.

(a) *Preventing or deterring the carriage of any explosive, incendiary, or weapon.* Unless otherwise authorized by TSA, each foreign air carrier must use the measures in its security program to prevent or deter the carriage of any explosive, incendiary, or weapon on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

(b) *Screening of individuals and accessible property.* Except as provided in its security program, each foreign air carrier must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in § 1546.207.

(c) *Refusal to transport.* Each foreign air carrier conducting an operation for which a security program is required by § 1546.101(a), (b), or (c) must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Explosive, incendiary, weapon: Prohibitions and exceptions.* No individual may, while on board an aircraft being operated by a foreign air carrier in the United States, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph (d) does not apply to—

(1) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(2) Crewmembers and other individuals authorized by the foreign air carrier to carry arms.

§ 1546.203 Acceptance and screening of checked baggage.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each foreign air carrier must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

(c) *Firearms in checked baggage.* No foreign air carrier may knowingly permit any person to transport, nor may any person transport, while aboard an aircraft being operated in the United States by that carrier, in checked baggage, a firearm, unless:

(1) The person has notified the foreign air carrier before checking the baggage that the firearm is in the baggage; and

(2) The baggage is carried in an area inaccessible to passengers.

§ 1546.205 Acceptance and screening of cargo.

(a) *General requirements.* Each foreign air carrier must use the procedures, facilities and equipment described in its security program to prevent or deter the carriage of unauthorized explosives or incendiaries in cargo onboard a passenger aircraft.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

§ 1546.207 Screening of individuals and property.

(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* As required in its security program, each foreign air carrier must ensure that all individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

(c) *Foreign air carrier conducting screening.* Each foreign air carrier must use the measures in its security program to inspect the individual or property.

This paragraph does not apply at locations identified in paragraphs (b) of this section.

§ 1546.209 Use of X-ray systems.

(a) *TSA authorization required.* No foreign air carrier may use any X-ray system within the United States to screen accessible property or checked baggage, unless specifically authorized under its security program. No foreign air carrier may use such a system in a manner contrary to its security program. TSA authorizes foreign air carriers to use X-ray systems for inspecting accessible property or checked baggage under a security program if the foreign air carrier shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792–88 (Reapproved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No foreign air carrier may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No foreign air carrier may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the foreign air carrier shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No foreign air carrier may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1) At locations at which a foreign air carrier uses an X-ray system to inspect accessible property the foreign air carrier must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which a foreign air carrier or TSA uses an X-ray system to inspect checked baggage the foreign air carrier must ensure that a sign is posted in a conspicuous place where the foreign air carrier accepts checked baggage.

(3) The signs required under this paragraph must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each foreign air carrier must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The foreign air carrier's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792–88 (Reapproved 1993), “Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas,” is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792–88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT's Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA–2001–8725). Copies of the standard may be

examined also at the Office of the Federal Register, 800 North Capitol St., NW, Suite 700, Washington, DC. In addition, ASTM Standard F792–88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

(h) Each foreign air carrier must comply with the X-ray operator duty time limitations specified in its security program.

§ 1546.211 Law enforcement personnel.

(a) At airports within the United States not governed by part 1542 of this chapter, each foreign air carrier engaging in public charter passenger operations must—

(1) When using a screening system required by § 1546.101(a), (b), or (c), provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in part 1542; and

(2) When using an airplane having a passenger seating configuration of 31 or more but 60 or fewer seats for which a screening system is not required by § 1546.101(a), (b), or (c), arrange for law enforcement officers meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by part 1542 of this chapter, each foreign air carrier engaging in scheduled passenger operations or public charter passenger operations when using an airplane with a passenger seating configuration of 31 or more and 60 or fewer seats under § 1546.101(c), must arrange for law enforcement personnel meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

Subpart D—Threat and Threat Response

§ 1546.301 Bomb or air piracy threats.

No foreign air carrier may land or take off an airplane in the United States, in passenger operations, after receiving a bomb or air piracy threat against that airplane, unless the following actions are taken:

(a) If the airplane is on the ground when a bomb threat is received and the next scheduled flight of the threatened airplane is to or from a place in the

United States, the foreign air carrier ensures that the pilot in command is advised to submit the airplane immediately for a security inspection and an inspection of the airplane is conducted before the next flight.

(b) If the airplane is in flight to a place in the United States when a bomb threat is received, the foreign air carrier ensures that the pilot in command is advised immediately to take the emergency action necessary under the circumstances and a security inspection of the airplane is conducted immediately after the next landing.

(c) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (a) or (b) of this section, the foreign air carrier ensures that notification of the threat is given to the appropriate authorities of the State in whose territory the airplane is located or, if in flight, the appropriate authorities of the State in whose territory the airplane is to land.

Subpart E—Screener Qualifications When the Foreign Air Carrier Conducts Screening

§ 1546.401 Applicability of this subpart.

(a) *Foreign air carrier screening.* This subpart applies when the foreign air carrier is conducting inspections as provided in § 1546.207(c).

(b) *Current screeners.* As used in this subpart, “current screener” means each individual who first performed screening functions before the date the foreign air carrier must begin use of the new screener training program provided by TSA. Until November 19, 2002, each current screener must comply with § 1546.403. Until November 19, 2002, each foreign air carrier must apply § 1546.403 for each current screener. On and after November 19, 2002, each current screener must comply with §§ 1546.405 through 1546.411, and each foreign air carrier must comply with §§ 1546.405 through 1546.411 for such individuals.

(c) *New screeners.* As used in this subpart, “new screener” means each individual who first performs screening functions on and after TSA orders the foreign air carrier to begin use of the new screener training program provided by TSA. Each foreign air carrier must apply §§ 1546.405 through 1546.411 for new screeners.

§ 1546.403 Current screeners.

The foreign air carrier must ensure that each current screener it uses to perform screening functions meet the qualifications and training standards set forth in its security program. This

section is no longer effective on and after November 19, 2002.

§ 1546.405 New screeners: Qualifications of screening personnel.

(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§ 1546.405 through 1546.411. No foreign air carrier may use such an individual to perform a screening function unless that person complies with the requirements of §§ 1546.405 through 1546.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the foreign air carrier's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States that are the last point of departure to the United States, and where the foreign air carrier has operational control over a screening function, the foreign air carrier may use screeners who do not meet the requirements of paragraph (f) of this section. At such locations the foreign air carrier may use screeners who are not United States citizens.

§ 1546.407 New screeners: Training, testing, and knowledge of individuals who perform screening functions.

(a) *Training required.* Before performing screening functions, an individual must have completed initial, recurrent, and appropriate specialized training as specified in this section and the foreign air carrier's security program. No foreign air carrier may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in § 1544.409(b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the foreign air carrier's security program.

(c) *Classroom instruction.* Each screener must complete at least 40 hours of classroom instruction or successfully complete a program that TSA determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No foreign air carrier may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each foreign air carrier must ensure that individuals performing as screeners,

screeners-in-charge, and checkpoint security supervisors for the foreign air carrier have knowledge of the provisions of this part, the foreign air carrier's security program, and applicable emergency amendments to the foreign air carrier's security program to the extent necessary to perform their duties.

§ 1546.409 New screeners: Integrity of screener tests.

(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by TSA, no person may—

(i) Copy or intentionally remove a test under this part;

(ii) Give to another or receive from another any part or copy of that test;

(iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or

(iv) Use any material or aid during the period that the test is being given.

(2) No person may take any part of that test on behalf of another person.

(3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).

(b) *Administering and monitoring screener tests.* (1) Each foreign air carrier must notify TSA of the time and location at which it will administer each screener readiness test required under § 1544.405 (d).

(2) Either TSA or the foreign air carrier must administer and monitor the screener readiness test. Where more than one foreign air carrier or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the foreign air carriers or foreign air carriers to monitor the test for a trainee who will screen at that location.

(3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the foreign air carrier must provide a direct employee to administer and monitor the screener readiness test.

(4) An foreign air carrier employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1546.411 New screeners: Continuing qualifications for screening personnel.

(a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment, such as

impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(b) *Training not complete.* An individual who has not completed the training required by § 1546.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—

- (1) Is closely supervised; and
- (2) Does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No foreign air carrier may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the foreign air carrier's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall receive an annual evaluation. The foreign air carrier must conduct and document an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

- (1) Continues to meet all qualifications and standards required to perform a screening function;
- (2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the foreign air carrier's security program; and
- (3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

8. Add new part 1548 to Chapter XII, subchapter C.

PART 1548—INDIRECT AIR CARRIER SECURITY

Sec.

- 1548.1 Applicability of this part.
- 1548.3 TSA inspection authority.
- 1548.5 Adoption and implementation of the security program.
- 1548.7 Approval and amendments of the security program.
- 1548.9 Acceptance of cargo.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

§ 1548.1 Applicability of this part.

This part prescribes aviation security rules governing each indirect air carrier engaged indirectly in the air transportation of property on passenger aircraft.

§ 1548.3 TSA inspection authority.

(a) Each indirect air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or airport tenant with—

- (1) This subchapter, and any security program approved under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each indirect air carrier must provide evidence of compliance with this subchapter and its indirect air carrier security program, including copies of records.

§ 1548.5 Adoption and implementation of the security program.

(a) *Security program required.* Each indirect air carrier must adopt and carry out a security program that meets the requirements of this section.

(b) *General requirements.* The security program must:

- (1) Provide for the safety of persons and property traveling in air transportation against acts of criminal violence and air piracy and the introduction of any unauthorized explosive or incendiary into cargo aboard a passenger aircraft.

(2) Be in writing and signed by the indirect air carrier.

(3) Be approved by TSA.

(c) *Content.* Each security program under this part must—

- (1) Be designed to prevent or deter the unauthorized introduction of any explosive or incendiary device into any package cargo intended for carriage by air;

(2) Include the procedures and description of the facilities and equipment used to comply with the requirements of § 1548.9 regarding the acceptance of cargo.

(d) *Availability.* Each indirect air carrier having a security program must:

- (1) Maintain an original of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at each office where cargo is accepted. An electronic version is adequate.

(3) Make a copy of the security program available for inspection upon the request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in its security program to persons with a need to know, as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

§ 1548.7 Approval and amendments of the security program.

(a) *Initial approval of security program.* Unless otherwise authorized by TSA, each indirect air carrier required to have a security program under this part must submit its proposed security program to the designated official for approval at least 90 calendar days before the date of intended operations. The proposed security program must meet the requirements applicable to its operation as described in § 1540.5. Such request will be processed as follows:

(1) The designated official, within 30 calendar days after receiving the proposed indirect air carrier security program, will either approve the program or give the indirect air carrier written notice to modify the program to comply with the applicable requirements of this part.

(2) The indirect air carrier may either submit a modified security program to the designated official for approval, or petition the Under Secretary to reconsider the notice to modify within 30 calendar days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an indirect air carrier.* An indirect air carrier may submit a request to the designated official to amend its security program as follows:

(1) The request for amendment must be filed with the designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to an indirect air carrier security program may be approved if the designated official determines that safety and the public interest will allow it, and if the

proposed amendment provides the level of security required under this part.

(4) Within 30 calendar days after receiving a denial, the indirect air carrier may petition the Under Secretary to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary will dispose of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment or by affirming the denial.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, the designated official may amend a security program as follows:

(1) The designated official notifies the indirect air carrier, in writing, of the proposed amendment, fixing a period of not less than 30 calendar days within which the indirect air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the indirect air carrier of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 calendar days after the indirect air carrier receives the notice of amendment, unless the indirect air carrier petitions the Under Secretary to reconsider no later than 15 calendar days before the effective date of the amendment. The indirect air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition together, with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the notice or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph

(c) of this section, effective without stay on the date that the indirect air carrier receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The indirect air carrier may file a petition for reconsideration under paragraph (c) of this section; however, this will not stay the effective date of the emergency amendment.

§ 1548.9 Acceptance of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each indirect air carrier must use the facilities, equipment, and procedures described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary on board a passenger aircraft in cargo.

(b) *Refusal to transport.* Each indirect air carrier must refuse to offer for transport on a passenger aircraft any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with this part, and part 1544 or 1546 of this chapter. The indirect air carrier must search or inspect cargo, and must request the shipper for consent to search or inspect cargo, as provided in the indirect air carrier's security program.

9. Add new part 1550 to Chapter XII, subchapter C.

PART 1550—AIRCRAFT SECURITY UNDER GENERAL OPERATING AND FLIGHT RULES

Sec.

- 1550.1 Applicability of this part.
- 1550.3 TSA inspection authority.
- 1550.5 Operations using a sterile area.
- 1550.7 Operations in aircraft of 12,500 pounds or more.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1550.1 Applicability of this part.

This part applies to the operation of aircraft for which there are no security requirements in other parts of this subchapter.

§ 1550.3 TSA inspection authority.

(a) Each aircraft operator subject to this part must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance with—

(1) This subchapter and any security program or security procedures under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each aircraft operator must provide evidence of compliance with this part and its

security program or security procedures, including copies of records.

§ 1550.5 Operations using a sterile area.

(a) *Applicability of this section.* This section applies to all aircraft operations in which passengers, crewmembers, or other individuals are enplaned from or deplaned into a sterile area, except for scheduled passenger operations, public charter passenger operations, and private charter passenger operations, that are in accordance with a security program issued under part 1544 or 1546 of this chapter.

(b) *Procedures.* Any person conducting an operation identified in paragraph (a) of this section must conduct a search of the aircraft before departure and must screen passengers, crewmembers, and other individuals and their accessible property (carry-on items) before boarding in accordance with security procedures approved by TSA.

(c) *Sensitive security information.* The security program procedures approved by TSA for operations specified in paragraph (a) of this section are sensitive security information. The operator must restrict the distribution, disclosure, and availability of information contained in the security procedures to persons with a need to know as described in part 1520 of this chapter.

(d) *Compliance date.* Persons conducting operations identified in paragraph (a) of this section must implement security procedures on October 6, 2001.

(e) *Waivers.* TSA may permit a person conducting an operation under this section to deviate from the provisions of this section if TSA finds that the operation can be conducted safely under the terms of the waiver.

§ 1550.7 Operations in aircraft of 12,500 pounds or more.

(a) *Applicability of this section.* This section applies to each aircraft operation conducted in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more except for those operations specified in § 1550.5 and those operations conducted under a security program under part 1544 or 1546 of this chapter.

(b) *Procedures.* Any person conducting an operation identified in paragraph (a) of this section must conduct a search of the aircraft before departure and screen passengers, crewmembers, and other persons and their accessible property (carry-on items) before boarding in accordance with security procedures approved by TSA.

(c) *Compliance date.* Persons identified in paragraph (a) of this section must implement security procedures when notified by TSA. TSA will notify operators by NOTAM, letter, or other communication when they must implement security procedures.

(d) *Waivers.* TSA may permit a person conducting an operation identified in this section to deviate from the provisions of this section if TSA finds that the operation can be conducted safely under the terms of the waiver.

Issued in Washington, DC, on February 14, 2002.

John W. Magaw,

Under Secretary of Transportation for Security.

[FR Doc. 02-4081 Filed 2-15-02; 12:14 pm]

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Federal Register

**Friday,
February 22, 2002**

Part II

Department of Transportation

Federal Aviation Administration

Transportation Security Administration

14 CFR Parts 91 et al.

49 CFR Parts 1500 et al.

Civil Aviation Security Rules; Final Rule

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

14 CFR Parts 91, 107, 108, 109, 121, 129, 135, 139, and 191

Transportation Security Administration

49 CFR Parts 1500, 1510, 1520, 1540, 1542, 1544, 1546, 1548, 1550

[Docket No. TSA-2002-11602; Amendment Nos. 91-272; 107-15; 108-20; 109-4; 121-289; 129-31; 135-83; 139-24; 191-5]

RIN 2110-AA03

Civil Aviation Security Rules

AGENCY: Federal Aviation Administration (FAA) and Transportation Security Administration (TSA), DOT.

ACTION: Final rule.

SUMMARY: This rulemaking transfers the FAA's rules governing civil aviation security to TSA. This rulemaking also amends those rules to enhance security as required by recent legislation. This rulemaking also requires additional qualifications, training, and testing of individuals who screen persons and property that are carried in passenger aircraft. It is intended to improve the quality of screening conducted by aircraft operators and foreign air carriers. This rule is being adopted to improve the qualifications of individuals performing screening, and thereby to improve the level of security in air transportation. This will help ensure a smooth transition of aviation security from the FAA to TSA, and will avoid disruptions in air transportation due to any shortage of qualified screeners.

DATES: This rule is effective February 17, 2002. The incorporation by reference of certain publications in the rule is approved by the Director of the Federal Register as of February 17, 2002. Submit comments by March 25, 2002.

ADDRESSES: You may obtain a copy of this final rule from the DOT public docket through the Internet at <http://dms.dot.gov/>, docket number TSA-2002-11602. If you do not have access to the Internet, you may obtain a copy of the working draft by United States mail from the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify Docket Number TSA-2002-11602 and request a copy of the final rule entitled "Civil Aviation Security Rules."

You may also review the public docket in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the Department of Transportation.

FOR FURTHER INFORMATION CONTACT: Scott Cummings, telephone 202-267-3413. For Part 1542—Brian Reed; for Part 1544—Lon M. Siro; for Part 1546—Nouri Larbi; for Part 1548—John F. DelCampo; Transportation Security Administration, Department of Transportation, Washington, DC 20591; telephone 202-267-3413.

SUPPLEMENTARY INFORMATION:**Comments Invited**

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb. 26, 1979), however, provides that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA or TSA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

TSA and the FAA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Abbreviations and Terms Used In This Document

ASIA 2000—Airport Security Improvement Act of 2000
ATSA—Aviation and Transportation Security Act
Computer Assisted Passenger Prescreening System (CAPPS)
GED—General Equivalency Diploma
Screening company NPRM—Notice of Proposed Rulemaking, Certification of Screening Companies, 65 FR 560 (January 5, 2000)

SIDA—Security identification display areas

SSI—Sensitive security information

TIP—Threat image projection

TSA—Transportation Security Administration

Background*Regulatory and Legislative Context*

The current aviation security rules are in title 14 of the Code of Federal Regulations. Part 107 governs airport operators that serve certain passenger operations of air carriers and commercial operators. Part 108 is for certain aircraft operators that hold U.S. air carrier or commercial operator certificates. Part 109 prescribes rules for indirect air carriers such as freight forwarders. Several sections in part 129 govern certain foreign air carriers that operate to, from, and within the United States. Aircraft operators and foreign air carriers are responsible for screening passengers and property that are carried on their aircraft. Part 191 covers the protection of sensitive security information. In addition, Special Federal Aviation Regulation 91 (SFAR 91) covers certain other aircraft operators. These rules were issued by the Administrator of the Federal Aviation Administration.

On January 5, 2000, the FAA published a Notice of Proposed Rulemaking (NPRM) that proposed to require FAA-certification for all companies that provide screening under 14 CFR parts 108, 109, and 129. See 65 FR 560. The screening company NPRM proposed such additional measures as improved training, FAA tests, and monitoring of the tests by aircraft operators. Further, the Airport Security Improvement Act of 2000 (ASIA 2000), Public Law 106-528, provided in part that training for screeners must include at least 40 hours of classroom instruction, with certain exceptions. The final rule on certification of screening companies was approved for publication shortly before the terrorist attacks of September 11, 2001, occurred.

September 11 Terrorist Attacks, and the Continuing Threat to Aviation Security

The September 11, 2001, terrorist attacks involving four U.S. commercial aircraft that resulted in the tragic loss of human life at the World Trade Center, the Pentagon, and southwest Pennsylvania, demonstrate the need for increased air transportation security measures. The Al-Qaeda organization, which was responsible for the attacks, possesses a near global network. The leaders of the groups constituting this organization have publicly stated that

they will attack the United States, its institutions, and its individual citizens. They retain a capability and willingness to conduct airline bombings, hijackings, and suicide attacks against U.S. targets: the December 22, 2001, attempted bombing of a U.S. carrier on a flight from Paris illustrates the continuing danger. Finally, it should be underscored that, although other potential threats to U.S. civil aviation may be overshadowed at present, they are no less important. For example, the uncertain course of the Middle East peace process, negative reactions to the U.S.-led military campaign in Afghanistan, and Iraqi opportunism in response to continued United Nations sanctions are among the developments that could give rise to attacks by groups or individuals not linked to the September 11 atrocities.

Aviation and Transportation Security Act

The September 11, 2001, attacks led Congress to enact the Aviation and Transportation Security Act (ATSA), Public Law 107-71, November 19, 2001. ATSA provides additional qualifications for screeners, including U.S. citizenship and increased training and testing of screeners.

Under ATSA, by November 19, 2002, the responsibility for inspecting persons and property carried by aircraft operators and foreign air carriers will be transferred to the Under Secretary of Transportation for Security, who heads a new agency created by that statute, the Transportation Security Administration (TSA).

ATSA requires TSA to make a number of improvements to aviation security. The improvements include that by November 19, 2002, screening of individuals and property in the United States be conducted by TSA employees and companies under contract with TSA. ATSA requires enhanced qualifications and training of individuals who perform screening functions. It requires that Federal law enforcement officers be present at screening locations.

Screening by TSA will make the certification of screening companies unnecessary. However, the screening company NPRM proposed enhanced screener qualifications and training, and enhanced aircraft operator and foreign air carrier oversight that remain relevant. First, until these duties are transferred, it is important to ensure that aircraft operators and foreign air carriers improve the qualifications, training, and testing of screeners in order to improve aviation security. Second, aircraft operators will continue to conduct some

screening at foreign locations, which must be done in accordance with enhanced standards.

Current Rulemaking

This rulemaking serves several purposes. It transfers to TSA rules the current FAA rules governing civil aviation security. Further, it includes certain improved standards, most notably for screener qualifications and training.

This rule does not include all of the improvements in security required under ATSA, but is an important step towards full compliance with that Act. It is intended to respond to the ATSA mandate for increased screener qualifications, by ensuring that aircraft operators and foreign air carriers improve the qualifications, training, and testing for newly hired screeners. It also makes related changes, in part as proposed in the screening company NPRM, and as required in ASIA 2000.

Beginning February 17, 2002, TSA will be assuming responsibility for screening that is currently the responsibility of aircraft operators. TSA will require the screening companies to comply with essentially the same enhanced screener qualifications and training that is applied to the aircraft operators and foreign air carriers in this rule. Until TSA takes over responsibility for all these screening duties, it is important that the aircraft operators improve the training and qualifications of screeners.

Most of the new screener qualification requirements come directly from ATSA. We intend by this action to make an immediate improvement in screening in response to the ongoing threat of terrorism to aviation security. At the same time we recognize the importance of an orderly transition as TSA assumes responsibility for contracting with screening companies, hiring screeners, and conducting screening. An inefficient transition would adversely affect security and would be costly and disruptive to the industry. As TSA begins to hire screeners, it will use a hiring process to select the most qualified personnel among all applicants. However, by acting now to ensure that hired screeners newly hired by aircraft operators and foreign air carriers meet many of the increased standards, a substantial number of better trained and qualified workers will be available by the time the ATSA requirements come into full effect. The standards imposed in this rule are thus an interim step, but we anticipate that many of the people hired during the transition period will also have the necessary ability and training for future

positions with TSA. These persons may subsequently be hired for those positions, although this is not assured.

This rulemaking does not address some measures required in ATSA to enhance screening, such as additional background checks for individuals with access to secured areas of airports. Those measures are under development now.

We emphasize that we are applying the new screener standards at this time only to employees hired as of February 17, 2002. Those individuals now performing screening functions on behalf of aircraft operators or foreign air carriers who may not be able to meet the requirements of ATSA once it comes into full effect may remain in their positions during the transition. In addition, those employees who are not currently eligible under ATSA may be able to take action during the transition period to improve their qualifications for future positions performing screening functions under TSA. For example, some people now performing screening functions may be eligible for U.S. citizenship, but have not yet taken the steps necessary to become U.S. citizens.

Overview of This Rulemaking

This rulemaking transfers the aviation security rules to title 49 of the Code of Federal Regulations. The Under Secretary of Transportation for Security is issuing these new rules.

The rules are largely unchanged from the FAA security rules, other than to change references from FAA to TSA. This rulemaking also incorporates some enhanced screener qualifications and training standards mandated by ATSA. These changes are discussed in this document in connection with the part of the rule affected.

These rules do not include all of the new security measures required in ATSA. In the future, TSA will adopt additional measures to improve controls to the access to secured areas of airports, additional checks of the backgrounds of individuals who have access to secured areas, and other measures required in ATSA.

14 CFR—FAA Regulations

Because security functions are transferring to TSA, many of the FAA rules are no longer needed. This rulemaking removes these parts.

Further, several references in the operations rules for air carriers and commercial operators are changed. Sections 121.538 and 135.125 are revised to require operators to comply with TSA security rules instead of FAA security rules. Similarly, where this

rulemaking removes security requirements in part 129, it adds a requirement that foreign air carriers comply with TSA security rules, the same as that for part 121.

49 CFR—TSA Regulations

This rulemaking establishes the basic organization for TSA rules. The rules will appear in title 49, Code of Federal Regulations, Chapter XII, which includes parts 1500 through 1699. Subchapter A will contain administrative and procedural rules. Subchapter B will contain rules that apply to many modes of transportation. Subchapter C will contain rules for civil aviation security.

Outline of TSA Regulations

Chapter XII—Transportation Security
Administration, Department of Transportation
Subchapter A—Administrative and Procedural Rules
Part 1500—Applicability, Terms and Abbreviations, and Rules of Construction
Part 1510—Passenger Civil Aviation Security Service Fees
Subchapter B—Security Rules for All Modes of Transportation
Part 1520—Protection of Sensitive Security Information
Subchapter C—Civil Aviation Security
Part 1540—Civil Aviation Security
Part 1542—Airport Security
Part 1544—Aircraft Operator Security: Air Carriers and Commercial Operators
Part 1546—Foreign Air Carrier Security
Part 1548—Indirect Air Carrier Security
Part 1550—Aircraft Operator Security Under General Operating and Flight Rules

49 CFR Part 1500—Applicability, Terms and Abbreviations

New part 1500 provides the applicability, and some terms and abbreviations, that apply to all TSA regulations. The definitions of “person” and “United States” are based on those in 49 U.S.C. 40102.

49 CFR Part 1520—Protection of Sensitive Security Information

New Part 1520 provides the rules for protecting sensitive security information. It is largely the same as 14 CFR part 191.

In general, Federal law and policy calls for release of information to the public, and TSA and DOT comply with these laws and policies. However, when release of information may compromise the safety or security of the traveling public, TSA and DOT protect that information from disclosure.

Information that could help someone determine how to defeat security systems is protected from public disclosure under part 1520. In § 1520.7, TSA has designated this information as SSI. SSI includes information about security programs, vulnerability assessments, technical specifications of certain screening equipment and objects used to test screening equipment, and other information. Under § 1520.3, TSA does not disclose such information. Under § 1520.5, aircraft operators, foreign air carriers, and others are required to protect SSI from disclosure. They may disclose SSI only to those with a need to know. For instance, aircraft operator and foreign air carrier security programs are protected from public disclosure under § 1520.7(a).

Section 1520.1 includes the applicability and definitions. Section 1520.1(c) provides that the authority of the Under Secretary under this part may be further delegated.

Section 101(e) of ATSA amended 49 U.S.C. 40119(b) by making it applicable to information obtained or developed in carrying out security in all modes of transportation. Although the Under Secretary is given overall responsibility for carrying out section 40119(b), the heads of the operating administrations in the Department of Transportation have day-to-day responsibility for matters in their own modes of transportation. Hence, it is most efficient for these other administrations to exercise authority to protect SSI in their modes. Accordingly, § 1520(d) provides that the Under Secretary’s authority under this part is also exercised, in consultation with the Under Secretary, by the Commandant of the United States Coast Guard, as to matters affecting and information held by the Coast Guard, and the Administrator of each DOT administration, as to matters affecting and information held by that administration, and any other individual formally designated to act in their capacity. The Under Secretary will be responsible for determining what information is SSI (see § 1520.7) and what persons are required to protect it under this part (see § 1520.5).

Section 1520.3 covers records and information withheld by the Transportation Security Administration. Section 1520.3(b)(3) is changed to reflect the change ATSA made to section 40119. TSA may protect information the release of which that would be detrimental to the safety of persons in transportation, not just air transportation.

Section 1520.5 covers records and information protected by others.

Paragraph (a) identifies what persons are responsible for protecting SSI. For the most part, they are the same persons covered in current § 191.5. However, § 1520.5(a)(8) covers each person for which a vulnerability assessment has been authorized, approved, or funded by DOT, irrespective of mode of transportation. These assessments may identify ways in which the port or other facility could be vulnerable to attack, and may suggest corrective action. If this information were to fall into the wrong hands it could be used to attack the transportation system. Accordingly, the persons receiving these vulnerability assessments now are responsible under this rule to protect them from unauthorized disclosure. The vulnerability assessments themselves are added to the list of information that is determined to be SSI in § 1520.7(r).

In the course of applying for and qualifying for an air carrier certificate or operating certificate under 14 CFR part 119, an applicant that will be subject to part 1544 receives a copy of the standard security program. To ensure that applicants for certificates are required to protect SSI, we are adding § 1520.5(e). Paragraph (e) provides that references in part 1520 to an aircraft operator, airport operator, indirect air carrier, or foreign air carrier, include applicants. Thus, an applicant must restrict disclosure of the security program information that it receives. The same is true of an applicant for any other security program, such as a foreign air carrier security program.

When an individual receives SSI during training for a position with an airport operator, aircraft operator, indirect air carrier, or foreign air carrier, he or she is subject to part 1520. Section 1520.5(f) clarifies that he or she may not disclose this information.

Section 1520.7 describes SSI. Section 1520.7 defines what information and records are SSI and therefore are subject to the protections in §§ 1520.3 and 1520.5.

Section 191.7(a) covers any approved or standard security program for an airport operator, aircraft operator, foreign air carrier, or indirect air carrier. However, the agency has recently adopted other security programs, including those covering screening to be conducted by TSA, and those covering certain general aviation operations. Accordingly, § 1520.7(a) covers any approved, accepted, or standard security program under the rules listed in § 1520.5(a) (1) through (6).

Section 1520.7(m) provides that the locations at which particular screening methods or equipment are used, and the carriers that are authorized to use those

methods and equipment, are SSI. This information is SSI only if TSA has determined that, as to those particular screening methods or equipment, the criteria of 49 U.S.C. 40119 are met. In some cases, the exact screening methods used at different locations are not publicly released, particularly methods used for checked baggage and cargo. This may occur, for instance, when new technology is deployed. It may take time to deploy it widely, and we may determine that there is a significant security benefit to not letting any unauthorized person know where it may be used. This could affect a person's perception as to whether the introduction of a threat item was more likely to be detected, and might lead a person to attempt to target a location that the person assumes is less secure.

New paragraph (n) is added to cover the screener tests that screeners must complete under this rulemaking. These tests contain information that is in the security programs and must be protected in the same way.

New paragraph (o) protects the scores of screener tests administered under the rules listed in § 1520.5(a) (1) through (6). These scores could be used to determine which screening locations have screeners with better or worse scores, which might be viewed as a means to defeat the screening system. Therefore, while the scores will be used by TSA to identify weaknesses, they may not be disclosed.

New paragraph (p) covers performance data from screening systems, and from testing of screening systems. This includes information from threat image projection systems (TIP) and from other tests and data collections. The performance data is protected to prevent unauthorized persons from attempting to determine which screening locations or companies may be less successful at detecting weapons, explosives, and incendiaries. Performance data might also be used to determine which threat items are more difficult to detect.

Paragraph (q) covers threat images and descriptions of threat images for threat image projection systems. The threat images and descriptions would inform unauthorized persons as to what threat items screeners have been exposed to. This information might be used in attempting to defeat screening and must be protected.

As noted above, paragraph (r) covers information in a vulnerability assessment that has been authorized, approved, or funded by DOT, irrespective of mode of transportation. Note that as TSA continues to consider the security needs of all the modes of

transportation in the current environment, we expect to identify other information that must be protected under this part in order to support transportation security. We may issue a notice of proposed rulemaking in the future to propose further changes. In that event, we may respond in that notice of proposed rulemaking to any comments to this final rule regarding this part.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 191	New section 49 CFR part 1520
191.1	1520.1
191.3	1520.3
191.5	1520.5
191.7	1520.7

49 CFR Part 1540—Civil Aviation Security: General Rules

New part 1540 provides rules that cover all segments of civil aviation security. It also includes rules that govern individuals and other persons. Most of the rules in part 1540 are transferred from 14 CFR parts 107, 108, and 129.

Delegations

Section 1540.3 contains delegations of authority. The law vests the authority of TSA in the Under Secretary of Transportation for Security. See 49 U.S.C. 114. Where the Civil Aviation Security rules in subchapter C name the Under Secretary as exercising authority over a function, the Under Secretary or the Deputy Under Secretary exercise the authority. Any individual formally designated to act as the Under Secretary or the Deputy Under Secretary may also exercise the authority.

For the most part these rules simply refer to TSA as exercising authority. Where rules in this subchapter name TSA as exercising authority over a function, in addition to the Under Secretary, a designated official within TSA exercises the authority.

Terms Used in This Subchapter

Section 1540.5 contains definitions and descriptions for many of the terms used in this subchapter. Most terms are from FAA regulations, including 14 CFR parts 1, 107, and 108. Some are definitions in the statute governing TSA, 49 U.S.C. 40102. Others are discussed below.

"Aircraft operator" is used in part 108 to identify the air carriers and

commercial operators that are subject to part 108. When this term was adopted the agency did not impose security regulations on aircraft operators other than air carriers or commercial operators. Recently, however, it has become necessary to require security measures for other aircraft operators, as discussed below under part 1550.

The term "aircraft operator" in § 1540.5 means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), (1) for the purpose of air navigation including the piloting of aircraft, or (2) on any part of the surface of an airport. This definition is based on the definition of "operate aircraft" in 49 U.S.C. 40102(32) and "operate" in 14 CFR part 1. The definition also states that in specific parts or sections, "aircraft operator" is used to refer to specific types of aircraft operators. For instance, new part 1544 uses "aircraft operator" to refer to those air carriers and commercial operators subject to that part.

"Indirect air carrier" is defined as any person or entity within the United States not in possession of an FAA air carrier operating certificate, that undertakes to engage indirectly in air transportation of property, and uses for all or any part of such transportation the services of a passenger air carrier. This does not include the United States Postal Service (USPS) or its representative while acting on the behalf of the USPS. This definition is in the aircraft operator standard security program and in the indirect air carrier standard security program.

"Person" is defined to include various entities and government authorities, as well as individuals, as it is in 49 U.S.C. 40102 and 14 CFR part 1.

"Screening function" is defined as the inspection of individuals and property for explosives, incendiaries, and weapons.

"Screening location" means each site at which individuals or property are inspected for the presence of any explosive, incendiary, or weapon. The checkpoint where passengers and their property are inspected with metal detectors, X-ray machines, and other methods is a screening location. So are the locations in the baggage make-up areas where checked baggage is inspected with an explosive detection system, and those locations where cargo is inspected.

There are some other wording changes in these rules worthy of note. FAA security rules often refer to "deadly or dangerous weapons." However, all weapons are potentially

deadly or dangerous, so the excess words were removed and these TSA rules refer simply to "weapons."

FAA rules often refer to "security systems, measures, or procedures" or other listing. However, the term "measures" encompasses all these terms. These TSA rules, therefore, often refer simply to "security measures," which may include any systems, procedures, equipment, and other measures that accomplish the security goal.

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

This subpart contains rules that apply to many persons, including airport operators, airport tenants, aircraft operators, foreign air carriers, and indirect air carriers, as well as employees of such entities, passengers, individuals at airports, and other individuals. This subpart includes rules that apply to all entities governed by subchapter C, and includes most of the security rules that apply to individuals rather than entities.

Section 1540.103 transfers the falsification rules that were in 14 CFR 107.9 and 108.7. The section applies to the whole subchapter. Criminal statutes, such as 18 U.S.C. 1001, prohibit intentional falsification and fraud. This section provides a civil remedy for similar conduct. See Amendment Nos. 107-9 and 108-4, Falsification of Security Records (61 FR 64242, Dec. 3, 1996) in which these rules were first adopted.

Section 1540.105 transfers §§ 107.11 and 108.9, regarding the security responsibilities of employees and other persons.

Section 1540.107 transfers § 108.201(c), which requires individuals who enter a sterile area to submit to screening. Transferring the section to part 1540 makes more clear that the rule applies to individuals entering a sterile area where screening is conducted by TSA, an aircraft operator, or a foreign air carrier.

Section 1540.109 is a new requirement prohibiting any person from interfering with, assaulting, threatening, or intimidating screening personnel in the performance of their screening duties. This section was proposed in the January 2000 screening company NPRM and received no negative comments. The rule prohibits interference that might distract or inhibit a screener from effectively performing his or her duties. This rule is necessary to emphasize the importance to safety and security of protecting screeners from undue

distractions or attempts to intimidate. Previous instances of such distractions have included verbal abuse of screeners by passengers and certain air carrier employees.

A screener encountering such a situation must turn away from his or her normal duties to deal with the disruptive individual, which may affect the screening of other individuals. The disruptive individual may be attempting to discourage the screener from being as thorough as required. The screener may also need to summon a checkpoint screening supervisor and law enforcement officer, taking them away from other duties. Checkpoint disruptions potentially can be dangerous in these situations. This rule supports screeners' efforts to be thorough and helps prevent individuals from unduly interfering with the screening process. This rule is similar to 14 CFR 91.11, which prohibits interference with crewmembers aboard aircraft, and which also is essential to passenger safety and security.

This rule does not prevent good-faith questions from individuals seeking to understand the screening of their persons or their property. But abusive, distracting behavior, and attempts to prevent screeners from performing required screening, are subject to civil penalties under this rule.

This section applies to individuals interfering with screeners under subchapter C. Thus, if an individual interferes with a screener employed by a foreign air carrier, the individual violates § 1540.109.

This section applies to persons, not just individuals. Thus, a company or other entity could be found in violation of this section.

Note that if an individual is interfering with screening in violation of this rule, that individual potentially is also in violation of State or local laws, such as those relating to disturbing the peace. This rule does not preempt such State and local laws. Law enforcement personnel at the scene will determine whether to take action under State or local laws. TSA will also determine whether TSA civil penalty action is warranted for violation of § 1540.109.

Title 49, United States Code, 46503, was added in ATSA to provide a criminal penalty for interfering with security personnel. Section 1540.109 permits TSA to seek a civil penalty for actions that may not warrant criminal prosecution under section 46503 but do warrant legal enforcement action.

Section 1540.101 regarding the carriage of weapons, explosives, and incendiaries by individuals, is

transferred from §§ 108.201(e) and (f), 108.203(e), and 129.27(a) and (b).

Section 1540.113 requires that each individual who holds an airman certificate, medical certificate, authorization, or license issued by the FAA must present it for inspection upon a request from TSA. As the need to ensure aviation security increases, it becomes important for TSA to be able to identify individuals who have access to aircraft, such as pilots and mechanics. This rule makes clear that TSA can require an airman to show his or her FAA certificate when requested. This rule is especially important for use with general aviation airmen who are not employed by air carriers, because they do not have identification media issued by air carriers or aircraft operators under Parts 1542 or 1544. For instance, TSA may need to make such a request in connection with §§ 1550.5 or 1550.7 security procedures. This section is similar to a number of sections in the FAA regulations, such as 14 CFR 61.3(l), 65.51(b), 65.89, and 65.105.

49 CFR Part 1542—Airport Security

New part 1542 provides the rules for airport operators. It is largely the same as 14 CFR part 107 (66 FR 37274, July 17, 2001) and § 107.209, Criminal history records checks, as amended (66 FR 63474, December 6, 2001). Some of the sections from part 107 were moved to part 1540 rather than part 1542 and are discussed in that portion of this document.

Law Enforcement Support

This part continues to state that the airport operator must provide law enforcement personnel to support its security program and to support each system for screening persons and accessible property required under parts 1544 or 1546. This screening includes the inspection of individuals and property, as well as other security measures such as those that take place at the ticket counter, such as Computer Assisted Passenger Prescreening System (CAPPS). TSA will be assuming responsibility for law enforcement presence for the inspection of individuals and property as necessary. When TSA assumes this duty at the airport, the airport will no longer need to perform this function on a routine basis. However, the airport operator will continue to provide a law enforcement presence and capability that is adequate to ensure the safety of passengers in accordance with 49 U.S.C. 44903(c), including covering screening before TSA law enforcement assumes this duty. Airport law enforcement will also be expected to back up TSA law

enforcement officers at screening locations should the need arise. TSA will work closely with law enforcement agencies at each airport to ensure that all agencies cooperate in providing for the safe and secure operation of the airport.

The recordkeeping requirements are changed to reflect TSA's participation in law enforcement support of airport security. Section 1542.221(b) requires that certain data be maintained, except as authorized by TSA. This includes data regarding weapons detected during passenger screening and information on arrests. To the extent that TSA is performing these functions or gathering this data, the airport operator will not have to.

Criminal History Records Checks (CHRC)

The current rule provides that the airport operator *may* exempt from the

requirement to undergo a CHRC individuals in four categories. See § 107.209(m)(1) through (4). Section 138 of ATSA, however, provides in part that a CHRC "shall not be required under this subsection for an individual who is exempted under section 107.31(m)(1) or (2) * * *". Section 107.31 was renumbered § 107.209. See 66 FR 37274, July 17, 2001.

Accordingly, in § 1542.209(m), what formerly was (m)(1) and (2) are renumbered to be paragraph (m)(1)(i) and (ii), and are revised to state that the airport operator must authorize the subject individuals to have unescorted access authority. These individuals include an employee of the Federal, state, or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation that includes a criminal

records check; and a crewmember of a foreign air carrier covered by an alternate security arrangement in the foreign air carrier's approved security program.

The other exemptions, formerly in (m)(3) and (4), are clarified. The airport operator may exempt certain individuals who have been continuously employed by another airport operator, airport user, or aircraft operator. In response to questions we have received, this section now states that the exemption does apply to contract employees of these entities, not only direct employees.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 107	New section 49 CFR part 1542/1540
107.1	1542.1
107.3	1540.5
107.5	1542.3
107.7	1542.5
107.9 and 108.7	1540.103
107.11 and 108.9	1540.105
Subpart B (§§ 107.101–107.113)	Subpart B (§§ 1542.101–1542.113)
Subpart C (§§ 107.201–107.221)	Subpart C (§§ 1542.201–1542.221)
Subpart D (§§ 107.301–107.307)	Subpart D (§§ 1542.301–1542.307)

49 CFR Part 1544—Aircraft Operator Security

New part 1544 provides the rules for aircraft operators. It is largely the same as 14 CFR part 108 (66 FR 37330, July 17, 2001) and § 108.229, Criminal history records checks, as amended (66 FR 63474, December 6, 2001). Some of the sections from part 108 were moved to part 1500 and are discussed in that portion of this document. The other significant changes are discussed below.

Screening

Although TSA is taking over responsibility for most inspections of individuals and property in the United States, aircraft operators will continue to do some inspections, such as at foreign airports where the host government does not screen. Accordingly, this rule continues to include measures for aircraft operators to carry out when they inspect individuals or property for weapons, explosives, and incendiaries.

Section 1544.201(a) continues the requirement that the aircraft operator use the measures in its security program

to prevent or deter the carriage of any explosive, incendiary, or weapon on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area. There are a number of measures used to carry out this requirement, including use of the CAPPS, inspecting the individual and their accessible property, and other measures. Aircraft operators are also required to ensure that passengers and their accessible property are inspected for weapons, explosives, and incendiaries. The means of accomplishing these inspections are described in § 1544.207, discussed below.

Note that § 1544.201(e) continues the requirement that the aircraft operator not permit persons to have unauthorized explosives, incendiaries, or weapons when on board an aircraft. Although TSA will conduct most inspections, if the aircraft operator becomes aware that a person has an unauthorized weapon, the aircraft operator must not permit that weapon on board.

Sections 1544.203 and 1544.205 continue the requirements that each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage and cargo. Section 1544.203(c) requires screening of all checked baggage, in compliance with section 110 of ATSA.

Section 1544.207 addresses the inspection of individuals, accessible property, checked baggage, and cargo. At locations within the United States at which TSA conducts such inspections, the aircraft operator's responsibility will be to ensure that passengers and property are inspected by TSA. The aircraft operator must follow procedures used at that airport to do so. For instance, the aircraft operator may not allow passengers to bypass inspection by bringing them to an aircraft from the ramp side, unless special arrangements are made to inspect the passengers.

Section 1544.207(c) provides that at locations where TSA or the host government is not conducting the

inspections, the aircraft operator will continue to be responsible for conducting the inspections. For instance, at most foreign airports aircraft operators are responsible for inspecting checked baggage. At such locations the aircraft operators must conduct the inspections in accordance with this part and their security program.

Section 1544.207(d) provides that at locations outside the United States at which the foreign government conducts inspections, the aircraft operator must ensure that the individuals and property have been inspected by the foreign government. The host government may inspect using government employees or using contractors hired by the government. In either case the aircraft operator must follow the procedures at that airport to ensure that the inspections are conducted before boarding the passengers and property.

Criminal History Records Checks (CHRC)

Section 1544.229 covers fingerprint-based criminal history records checks (CHRCs). This section requires all individuals who have unescorted access to the SIDA, and all individuals with authority to perform screening functions for passengers and accessible property, to undergo a CHRC. See 66 FR 63474 (December 6, 2001).

This section currently only covers screening functions for passengers and accessible property because, until ATSA, the statute providing authority for these checks only covered such functions. Further, it appears that almost all individuals who screen checked baggage and cargo are covered under the current rule, because they also screen passengers and accessible property, or because they have unescorted access to the SIDA where they handle checked baggage and cargo.

ATSA amended the statute as to CHRCs so that it also covers screening of checked baggage and cargo. See ATSA sections 110 and 49 U.S.C. 44901(a) and 44936. In addition, ATSA emphasizes the need to enhance security for checked baggage and cargo, and to expand the use of background checks. See ATSA section 110 and 136. TSA has determined, therefore, that we must ensure that all screeners of checked baggage and cargo have undergone a CHRC. This rule applies to new screeners as of February 17, 2002, and allows the aircraft operators until December 6, 2002, to conduct the CHRCs on current screeners. This is essentially the same as the December 2001 amendment to this section.

Further, this section requires that individuals who accept checked baggage

for transport on behalf of the aircraft operator must undergo a CHRC. This includes ticket agents, sky caps, individuals at remote check-in sites at hotels, and others. Most such individuals currently have unescorted access to the SIDA and therefore are subject to the current rule. There are some, however, that are not currently subject to § 1544.229.

Individuals who accept checked baggage exercise important security functions, which may include such functions as identifying those items that require extra security, and guarding the baggage from tampering. It is important that such individuals can be relied on. Accordingly, this rule ensures that all such individuals will undergo a CHRC.

Note that this section does not cover individuals who accept cargo for transport (except for those who also screen cargo). Many such individual have unescorted access to the SIDA and therefore are subject to the rule. As to the others, TSA is now closely examining the cargo industry and determining what additional security measures may be advisable. We will provide for additional security measures in the future.

Paragraph (g) covers determining the arrest status of an individual when the CHRC results show an arrest for a disqualifying criminal offense but do not show the disposition of that offense. This paragraph states that the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before the individual may serve in the covered position. This has been interpreted by some people to mean that there must be a disposition in order for the individual to serve. This was not intended. For instance, if the court is holding the case in abeyance, and there is no conviction or finding of not guilty by reason of insanity, the individual is not disqualified. This section is amended to better explain this meaning. Note that if the individual is later convicted he or she must report the conviction under paragraph (l). The same change is made to § 1542.209(g) for airport operators.

The requirements for screener qualifications and testing are now in subpart E, discussed below.

Screener Qualifications

Subpart E contains the qualifications and training standards for screeners. Current screeners will continue under the current standard (14 CFR 108.213 in the current rule, 49 CFR 1544.403 in this new rule) until November 19, 2002, when all screeners must meet the new standards. TSA is developing new training that it will provide to aircraft

operators and foreign air carriers, and will order them to begin using on a specified date. The new standards will apply to those who first serve as screeners on and after that date.

Sections 1544.405 through 1544.411 cover the new screeners, who first serve as screeners on and after February 17, 2002. Most of the new standards come from ATSA. These provisions are essentially the same as those that TSA will use for screeners that it hires as employees to screen in the majority of airports. This rule will ensure that all screeners meet the same enhanced standards required under ATSA.

Section 1544.405, regarding the qualifications of screening personnel, incorporates the basic qualifications for screeners now in § 108.213, and additions from ATSA. Screeners must be U.S. citizens and have a high school diploma or a General Equivalency Diploma (GED). As authorized by ATSA, TSA may determine that the individual's education and experience are sufficient instead of the high school diploma or GED. Screeners must also have a satisfactory or better score on a screener selection test provided by TSA.

Section 1544.405 also sets out that those seeking to be screeners must have the fundamental physical and mental aptitude necessary to perform the job. These include the statutory requirements for adequate color perception, motor skills and related physical abilities in accordance with their assignment, and the ability to read, write, and speak in English.

Section 1544.407 covers the training, testing, and knowledge of individuals who perform screening functions. For those locations where the hiring and training of screeners remain an aircraft operator responsibility, the aircraft operator or foreign air carrier will be responsible to meet specific training and testing standards. Except as part of on-the-job training, no one may perform screening functions without having completed the required initial, recurrent, and specialized training, and no aircraft operator may use screeners who are not properly trained.

More specifically, for screeners who first serve on or after February 17, 2002, this section provides that training must be conducted using training programs that have been made available by TSA. Current standards allow for as little as 12 hours of classroom instruction; as required by statute, newly hired trainees must complete 40 hours of classroom training. The required training program will be made available through the aircraft operator's or foreign air carrier's Principal Security Inspector. The

material in the training program will take 40 hours to cover adequately.

Following classroom instruction, but before moving on to the on-the-job portion of the training, a trainee must pass the screener readiness test. On-the-job training must be for at least 60 hours, in accordance with ATSA. Although a trainee will be performing screening functions during on-the-job training, he or she must be closely supervised. Further testing is required after completion of on-the-job training before the screener is allowed to make independent judgments as a screener.

Under § 1544.407(g), aircraft operators are prohibited from allowing trainees to have access to sensitive security information (SSI) until the criminal history records check (required by § 1544.229) is successfully completed. As discussed in the changes to part 1520, certain information related to civil aviation security must be protected from unauthorized disclosure because it could be used to attempt to defeat the security system if it falls into the wrong hands.

Before allowing an individual to screen passengers and property that will be carried in the cabin of an aircraft, the aircraft operator must conduct a criminal history records check and verify that the individual does not have a disqualifying criminal offense. These requirements are set out at § 1544.229. Under this rule, that check must be completed before giving SSI to a trainee. Criminal history records checks are also required for individuals with unescorted access to security identification display areas (SIDA). They are conducted by either the airport operator or aircraft operator. See 49 U.S.C. 44936 and § 1544.229. See also Criminal History Records Checks, 66 FR 63474, Dec. 6, 2001.

Section 1544.409 covers the integrity of screener tests. Paragraph (a) makes it a violation to cheat or facilitate cheating on any screener test, such as by unauthorized copying, or giving or receiving improper assistance on the test. This section was proposed in the screening company NPRM and no commenters objected. This section emphasizes that cheating is not permitted on any training test administered to or taken by screening personnel, to include test monitors, screeners, screeners in charge, and checkpoint security supervisors. These requirements are similar to the testing regulations for pilots in 14 CFR 61.37.

Certain of the requirements apply "except as authorized," to provide for the possibility that in the future, TSA would authorize such conduct as the use of certain outside materials. For

instance, in pilot exams, the applicants may bring flight computers to perform required calculations.

In addition, § 1544.409(b) governs administering and monitoring screener readiness tests. Whenever a screener readiness test is to be performed, the aircraft operator must notify the agency. If a government official is not available at the time the test is being conducted, the test must be administered and monitored by a direct employee of the aircraft operator. Screening companies will not be permitted to monitor their own screener readiness tests. The monitor must not be a screener or supervisor, but must understand the nature of the test and be able to detect cheating. This does not require knowledge of the subject matter in which the screener is tested. For instance, the monitor must know what, if any, outside materials the screener is allowed to use and be able to observe whether the screener is using unauthorized materials. The monitor will be expected to call up the test on the computer for the trainee, to submit the computerized test for grading, and to make a record of the grade, such as by printing out the result.

We recognize that at some airports the aircraft operator may not have an employee who can perform this task. The rule provides that TSA may authorize an aircraft operator or foreign air carrier to use as a test monitor a person who is neither a direct employee nor a government employee. This ensures independence on the part of the person who is monitoring the test. For instance, an aircraft operator or foreign air carrier may have difficulty at small airports at which it has few flights. Such airports often have a pilot school or fixed base operator at which an FAA-designated examiner administers and monitors written pilot tests. Designated examiners are very familiar with monitoring tests to prevent cheating. An aircraft operator or foreign air carrier could consider arranging for the designated examiner to monitor the screener training tests.

If multiple aircraft operators or foreign air carriers contract with one screening company, TSA will authorize one of them to monitor the screener tests, or the responsibility may be rotated among them.

We are not requiring that the on-the-job training tests be monitored because of the logistical difficulties involved with screeners completing their 60 hours of on-the-job training at varied times.

Section 1544.411 covers the continuing qualifications for screening personnel. ATSA states that a screener

must be fit for duty on a daily basis, unimpaired by illegal drugs, sleep deprivation, medication, or alcohol. Paragraph (a) of this section includes these requirements, but also makes it clear that they are intended as examples of potential causes of impairment rather than an exclusive list. We believe that fitness for duty is an absolute requirement for proper execution of a screener's responsibilities, and on-duty impairment is unacceptable, irrespective of the cause.

Under § 1544.411(b), aircraft operators are prohibited from allowing screeners who have not completed training, including on-the-job training, to exercise independent judgment about permitting individuals or property to pass into the sterile area of an airport or aboard an aircraft.

Under paragraph (c), whenever a screener fails a TSA operational test, he or she must undergo remedial training before being permitted to resume screening duties.

An annual proficiency review is required in paragraph (d). To ensure that a screener's skills are maintained over time, the aircraft operator's Ground Security Coordinator must conduct an annual evaluation of each person performing screening functions. This is the same requirement as set forth in § 108.213(d). This proficiency review must satisfactorily demonstrate that the screener continues to meet all qualification requirements, has performed satisfactorily, and demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

Signs for X-ray Systems

The current rules require aircraft operators to post signs if they use X-ray technology, including explosive detection systems. See §§ 108.209(e) and 108.211(b). The signs alert people that items are inspected by X-rays and warn them to remove X-ray, scientific, and high-speed film from their accessible property and checked baggage.

This rule includes these sign requirements when the aircraft operator conducts screening using X-ray technology. If TSA is screening accessible property, however, the aircraft operator is not responsible for the signs. TSA will control the screening checkpoint and will post all necessary signs. This rule requires aircraft operators to post signs where checked baggage is accepted if either TSA or the aircraft operator screens checked baggage using X-ray technology. See §§ 1544.209(e) and 1544.211(b). The aircraft operators

continue to have control over locations where checked baggage is accepted and must post the signs to provide necessary information to the passengers. These signs are already posted in most places where they are needed. The aircraft operators will simply need to keep them posted.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 108	New section 49 CFR part 1544/1540
108.1	1544.1
108.3	1540.5
108.5	1544.3
108.7 and 107.9	1540.103
108.9 and 107.11	1540.105
Subpart B (§§ 108.101– 108.105).	Subpart B (§§ 1544.101– 1544.105)
108.201(c)	1540.107
108.201(e) and (f)	1540.101
108.203 (e)	1540.101
108.205	1544.205
108.207	1544.209
108.209	1544.211
108.211	1544.213
108.213	1544.403
Subpart C (§§ 108.215– 108.235).	Subpart C (§§ 1544.215– 1544.235)
Subpart D (§§ 108.301– 108.305).	Subpart D (§§ 1544.301– 1544.305)

49 CFR Part 1546—Foreign Air Carrier Security

New part 1546 provides the rules for foreign air carriers that operate within the United States. It largely contains the same requirements as the security sections in 14 CFR part 129, including §§ 129.25, 129.26, 129.27, and 129.31. However, it has been reorganized for ease of use, and certain requirements are updated, such as the procedure for adopting and amending a security program. Further, several additional measures are amended or added, including signs for X-ray machines in § 1546.209, and screener qualifications and training in subpart E is added, reading essentially the same and for the same reasons as in part 1544.

Section 1546.209 (current § 129.26) covers the use of X-ray systems. The industry standard for X-ray systems is updated for foreign air carriers in § 1546.209(g), consistent with the requirement for aircraft operators in § 1544.209(g). The ASTM standard has been amended to provide an updated operational test procedure. Foreign air carriers currently are carrying out this

procedure. This rule incorporates the new ASTM standard.

The following chart cross-references applicable sections of the regulations for foreign air carrier security that were moved from 14 CFR to 49 CFR:

DISTRIBUTION TABLE

Current section/ part 14 CFR part 129	New section/part 49 CFR part 1546/1540/ 1510
129.25(a)	1510.3
129.25(b)	1546.101
129.25(b)(1)	1546.101(a)
129.25(b)(2)	1546.101(b)
129.25(b)(3)	1546.101(c)
129.25(b)(4)	1546.101(d)
129.25(c)	1546.103(b)
129.25(d)	1546.103(c)
129.25(e)	1546.103(a)(1)
129.25(e)(1)	1546.103(a)(2)
129.25(e)	1546.105
129.25(f)	1546.301
129.25(g)	1546.201(c)
129.25(h)	1546.209(a)
129.25(i)	1546.209(b)
129.25(j)	1546.201(a), (b)
129.26	1546.207
129.27(a)	1546.201(d) and 1540.101
129.27(b)	1546.203(c) and 1540.101
129.31	1546.103(d)

49 CFR Part 1548—Indirect Air Carrier Security

New part 1548 provides the rules for indirect air carriers. It is largely the same as 14 CFR part 109. However, it has been reorganized for readability and to update certain requirements, such as the procedure for adopting and amending a security program.

In the screening company NPRM the FAA proposed to add a section on the FAA's inspection authority. No comments were received. Section 1548.3 contains TSA's inspection authority for indirect air carriers, which is the same as for aircraft operators under part 1544 and others under this subchapter.

Section 1548.5 and 1548.7 contain the requirements for security programs. These sections were proposed (in slightly different formats) in the January 2000 screening company NPRM and received no negative comments. Section 1548.5, Adoption and implementation, redesignates current § 109.3 as § 1548.5 and reorganizes it to be similar to § 1544.103. Section 1548.5 is largely the same as current § 109.3. New paragraph 1548.5(d)(2) makes clear that the security program at each office where cargo is accepted may be an electronic version.

Section 1548.7 restates and clarifies § 109.5 and makes it consistent with § 1544.105.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section 14 CFR part 109	New section 49 CFR part 1548
109.1	1548.1
109.3	1548.5
109.5	1548.7

49 CFR Part 1550—Aircraft Security Under General Operating and Flight Rules

This part includes security requirements for aircraft operations other than those governed by other parts in this subchapter. It covers air carrier operations that are not covered by part 1544, such as corporate and private aircraft, and other operations. Part 1550 now provides the rules for aircraft operators covered under SFAR 91 (66 FR 50531, Oct. 4, 2001). It contains the same requirements as those in the SFAR, but is reorganized.

In addition, § 1550.3 describes TSA's inspection authority for aircraft operators under this part. It is largely the same as for aircraft operators under part 1544 and others under this subchapter, except that it does not include references to access to the SIDA, because they are not relevant in this part.

Section 1550.5 is essentially the same as SFAR 91 paragraph 1(a).

Section 1550.7 is essentially the same as SFAR 91 paragraph 1(b), except that the size of aircraft covered is expanded. SFAR 91 covers aircraft with a maximum certificated takeoff weight of more than 12,500 pounds. However, in ATSA Congress has provided that the agency must require increased security for aircraft of 12,500 pounds or more. See ATSA sections 113 and 132(a). Accordingly, § 1550.7 provides that TSA may require additional measures for operators of aircraft 12,500 pounds or more maximum certificated takeoff weight when TSA determines that a threat exists.

The following distribution table is provided to illustrate how the current regulations relate to the newly added regulations.

DISTRIBUTION TABLE

Current section SFAR No. 91 in 14 CFR part 91	New section 49 CFR part 1550
1(a)	1550.5

DISTRIBUTION TABLE—Continued

Current section SFAR No. 91 in 14 CFR part 91	New section 49 CFR part 1550
1(b)	1550.7
2	§§ 1550.5 and 1550.7
3	§§ 1550.5 and 1550.7
4	§§ 1550.5 and 1550.7
5	1550.1

Good Cause for Immediate Adoption

This action mostly is an administrative action moving rules from one title to another in the Code of Federal Regulations. In addition, ATSA imposes a statutory mandate for TSA to improve screener qualifications and training, checked baggage security, and cargo security. This action is necessary to prevent a possible imminent hazard to aircraft and persons and property within the United States. Because the circumstances described herein warrant immediate action, the Under Secretary finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do without incurring expense or delay. We may further amend this rule in light of the comments we receive.

Paperwork Reduction Act

This final rule contains information collection requirements that were previously approved for parts 107 (2120–0075, 2120–0554, 2120–0628), 108 (2120–0098, 2120–0554, 2120–0577, 2120–0628, 2120–0642), 109 (2120–0505), and 129 (2120–0638), in accordance with the Paperwork Reduction Act (44 U.S.C. Section 3507(d)). TSA is submitting to the Office of Management and Budget a supplemental justification requesting that these approvals be transferred from the FAA to TSA.

Economic Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic

impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, the Regulatory Flexibility Act does not apply. TSA recognizes that this rule may impose significant costs on aircraft operators and foreign air carriers. An assessment will be conducted in the future. In any event, the current security threat requires that operators take necessary measures to ensure the safety and security of their operations. This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 13132, Federalism

The TSA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA and TSA have assessed the potential effect of this final rule and have determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.”

The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when rulemaking actions are taken without the issuance of a notice of proposed rulemaking. Therefore, the FAA and TSA have not prepared a statement under the Act.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT** for information. You can get further information regarding SBREFA on the Small Business Administration's Web page at http://www.sba.gov/advo/laws/law_lib.html.

List of Subjects**14 CFR Part 91**

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

14 CFR Part 107

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 108

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 109

Air carriers, Aircraft, Freight forwarders, Security measures.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety, Security measures.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

14 CFR Part 139

Air carriers, Airports, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 191

Air transportation, Security measures.

49 CFR Part 1500

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1510

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1520

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1540

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1542

Air carriers, Aircraft, Aviation safety, Security measures.

49 CFR Part 1544

Air carriers, Aircraft, Aviation safety, Freight forwarders, Incorporation by reference, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1546

Aircraft, Aviation safety, Foreign air carriers, Incorporation by reference, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1548

Air transportation, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1550

Aircraft, Security measures.

Federal Aviation Administration**14 CFR Chapter I****Authority and Issuance**

For the reasons stated in the preamble and under the authority of 49 U.S.C. 40102, the Federal Aviation Administration amends 14 CFR chapter I 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), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

Special Federal Aviation Regulation No. 91—[REMOVED]

2. Remove SFAR No. 91 from 14 CFR part 91.

PART 107—[REMOVED]

3. Remove 14 CFR part 107.

PART 108—[REMOVED]

4. Remove 14 CFR part 108.

PART 109—[REMOVED]

5. Remove 14 CFR part 109.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

6. Revise the authority citation for part 121 to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.

7. Revise § 121.538 to read as follows:

§ 121.538 Aircraft security.

Certificate holders conducting operations under this part must comply with the applicable security requirements in 49 CFR chapter XII.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

8. Revise the authority citation for part 129 to read as follows:

Authority: 49 U.S.C. 106(g), 40104–40105, 40113, 40119, 41706, 44701–44702, 44712, 44716–44717, 44722.

9. Revise § 129.25 to read as follows:

§ 129.25 Airplane security.

Foreign air carriers conducting operations under this part must comply with the applicable security requirements in 49 CFR chapter XII.

§§ 129.26, 129.27, and 129.31 [REMOVED]

10. Remove §§ 129.26, 129.27, and 129.31.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

11. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44101, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

12. Revise § 135.125 to read as follows:

§ 135.125 Aircraft security.

Certificate holders conducting operators conducting operations under this part must comply with the applicable security requirements in 49 CFR chapter XII.

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CERTAIN AIR CARRIERS

13. The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. 106 (g), 40113, 44701–44706, 44709, 44719.

14. Section 139.325(h) is revised to read as follows:

§ 139.325 Airport emergency plan.

* * * * *

(h) Each airport subject to 49 CFR part 1542, Airport Security, shall ensure that instructions for response to paragraphs (b)(2) and (b)(6) of this section in the airport emergency plan are consistent with its approved security program.

* * * * *

PART 191—[REMOVED]

15. Remove 14 CFR part 191.

Issued in Washington, DC on February 14, 2002.

Jane F. Garvey,
Administrator.

Transportation Security Administration
49 CFR Chapter XII

For the reasons stated in the preamble, the Transportation Security Administration amends 49 CFR Chapter XII as follows:

1. Add new subchapter A and part 1500 to Chapter XII to read as follows:

SUBCHAPTER A—ADMINISTRATIVE AND PROCEDURAL RULES

PART 1500—APPLICABILITY, TERMS, AND ABBREVIATIONS

Sec.

1500.1 Applicability.

1500.3 Terms and abbreviations used in this chapter.

1500.5 Rules of construction.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1500.1 Applicability.

This chapter, this subchapter, and this part apply to all matters regulated by the Transportation Security Administration.

§ 1500.3 Terms and abbreviations used in this chapter.

As used in this chapter:

Person means an individual, corporation, company, association, firm, partnership, society, joint-stock company, or governmental authority. It includes a trustee, receiver, assignee, successor, or similar representative of any of them.

Transportation Security Regulations (TSR) means the regulations issued by the Transportation Security Administration, in title 49 of the Code of Federal Regulations, chapter XII, which includes parts 1500 through 1699.

TSA means the Transportation Security Administration.

Under Secretary means the Under Secretary of Transportation for Security.

United States, in a geographical sense, means the States of the United States, the District of Columbia, and territories and possessions of the United States, including the territorial sea and the overlying airspace.

§ 1500.5 Rules of construction.

(a) In this chapter, unless the context requires otherwise:

(1) Words importing the singular include the plural.

(2) Words importing the plural include the singular.

(3) Words importing the masculine gender include the feminine.

(b) In this chapter, the word:

(1) “Must” is used in an imperative sense;

(2) “May” is used in a permissive sense to state authority or permission to do the act prescribed, and the words “no person may * * *” or “a person

may not * * *” mean that no person is required, authorized, or permitted to do the act prescribed; and

(3) “Includes” means “includes but is not limited to”.

2. Existing part 1510 is transferred to subchapter A.

3. Add new subchapter B and part 1520 to Chapter XII.

SUBCHAPTER B—SECURITY RULES FOR ALL MODES OF TRANSPORTATION

PART 1520—PROTECTION OF SENSITIVE SECURITY INFORMATION

Sec.

1520.1 Applicability and definitions.

1520.3 Records and information withheld by the Department of Transportation.

1520.5 Records and information protected by others.

1520.7 Sensitive security information.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1520.1 Applicability and definitions.

(a) This part governs the release, by the Transportation Security Administration and by other persons, of records and information that has been obtained or developed during security activities or research and development activities.

(b) For purposes of this part:

Record includes any writing, drawing, map, tape, film, photograph, or other means by which information is preserved, irrespective of format.

Vulnerability assessment means any examination of a transportation system, vehicle, or facility to determine its vulnerability to unlawful interference.

(c) The authority of the Under Secretary under this part may be further delegated within TSA.

(d) The Under Secretary’s authority under this part to withhold or to disclose sensitive security information is also exercised, in consultation with the Under Secretary, by the Commandant of the United States Coast Guard, as to matters affecting and information held by the Coast Guard, and the Administrator of each DOT administration, as to matters affecting and information held by that administration, and any individual formally designated to act in their capacity.

§ 1520.3 Records and information withheld by the Department of Transportation.

(a) Except as provided in paragraphs (c) and (d) of this section, and notwithstanding the Freedom of Information Act (5 U.S.C. 552) or other laws, the records and information described in § 1520.7 and paragraph (b) of this section are not available for

public inspection or copying, nor is information contained in those records released to the public.

(b) Section 1520.7 describes the information that TSA prohibits from disclosure. The Under Secretary prohibits disclosure of information developed in the conduct of security or research and development activities under 49 U.S.C. 40119 if, in the opinion of the Under Secretary, the disclosure of such information would:

(1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(2) Reveal trade secrets or privileged or confidential information obtained from any person; or

(3) Be detrimental to the safety of persons traveling in transportation.

(c) If a record contains information that the Under Secretary determines cannot be disclosed under this part, but also contains information that can be disclosed, the latter information, on proper Freedom of Information Act request, will be provided for public inspection and copying. However, if it is impractical to redact the requested information from the document, the entire document will be withheld from public disclosure.

(d) After initiation of legal enforcement action, if the alleged violator or designated representative so requests, the Chief Counsel, or designee, may provide copies of portions of the enforcement investigative report (EIR), including sensitive security information. This information may be released only to the alleged violator or designated representative for the sole purpose of providing the information necessary to prepare a response to the allegations contained in the legal enforcement action document. Such information is not released under the Freedom of Information Act. Whenever such documents are provided to an alleged violator or designated representative, the Chief Counsel or designee advises the alleged violator or designated representative that—

(1) The documents are provided for the sole purpose of providing the information necessary to respond to the allegations contained in the legal enforcement action document; and

(2) Sensitive security information contained in the documents provided must be maintained in a confidential manner to prevent compromising civil aviation security, as provided in § 1520.5.

§ 1520.5 Records and information protected by others.

(a) *Duty to protect information.* The following persons must restrict disclosure of and access to sensitive security information described in § 1520.7 (a) through (g), (j), (k), and (m) through (r), and, as applicable, § 1520.7 (l) to persons with a need to know and must refer requests by other persons for such information to TSA or the applicable DOT administration:

(1) Each person employed by, contracted to, or acting for a person listed in this paragraph (a).

(2) Each airport operator under part 1542 of this chapter.

(3) Each aircraft operator under part 1544 of this chapter.

(4) Each foreign air carrier under part 1546 of this chapter.

(5) Each indirect air carrier under part 1548 of this chapter.

(6) Each aircraft operator under § 1550.5 of this chapter.

(7) Each person receiving information under § 1520.3 (d).

(8) Each person for which a vulnerability assessment has been authorized, approved, or funded by DOT, irrespective of the mode of transportation.

(b) *Need to know.* For some specific sensitive security information, the Under Secretary may make a finding that only specific persons or classes of persons have a need to know. Otherwise, a person has a need to know sensitive security information in each of the following circumstances:

(1) When the person needs the information to carry out DOT-approved, accepted, or directed security duties.

(2) When the person is in training to carry out DOT-approved, accepted, or directed security duties.

(3) When the information is necessary for the person to supervise or otherwise manage the individuals carrying to carry out DOT-approved, accepted, or directed security duties.

(4) When the person needs the information to advise the persons listed in paragraph (a) of this section regarding any DOT security-related requirements.

(5) When the person needs the information to represent the persons listed in paragraph (a) of this section in connection with any judicial or administrative proceeding regarding those requirements.

(c) *Release of sensitive security information.* When sensitive security information is released to unauthorized persons, any person listed in paragraph (a) of this section or individual with knowledge of the release, must inform DOT.

(d) *Violation.* Violation of this section is grounds for a civil penalty and other

enforcement or corrective action by DOT.

(e) *Applicants.* Wherever this part refers to an aircraft operator, airport operator, foreign air carrier, or indirect air carrier, those terms also include applicants for such authority.

(f) *Trainees.* An individual who is in training for a position is considered to be employed by, contracted to, or acting for persons listed in paragraph (a) of this section, regardless of whether that individual is currently receiving a wage or salary or otherwise is being paid.

§ 1520.7 Sensitive security information.

Except as otherwise provided in writing by the Under Secretary as necessary in the interest of safety of persons in transportation, the following information and records containing such information constitute sensitive security information:

(a) Any approved, accepted, or standard security program under the rules listed in § 1520.5(a)(1) through (6), and any security program that relates to United States mail to be transported by air (including that of the United States Postal Service and of the Department of Defense); and any comments, instructions, or implementing guidance pertaining thereto.

(b) Security Directives and Information Circulars under § 1542.303 or § 1544.305 of this chapter, and any comments, instructions, or implementing guidance pertaining thereto.

(c) Any selection criteria used in any security screening process, including for persons, baggage, or cargo under the rules listed in § 1520.5(a)(1) through (6).

(d) Any security contingency plan or information and any comments, instructions, or implementing guidance pertaining thereto under the rules listed in § 1520.5(a)(1) through (6).

(e) Technical specifications of any device used for the detection of any deadly or dangerous weapon, explosive, incendiary, or destructive substance under the rules listed in § 1520.5(a)(1) through (6).

(f) A description of, or technical specifications of, objects used to test screening equipment and equipment parameters under the rules listed in § 1520.5(a)(1) through (6).

(g) Technical specifications of any security communications equipment and procedures under the rules listed in § 1520.5(a)(1) through (6).

(h) As to release of information by TSA: Any information that TSA has determined may reveal a systemic vulnerability of the aviation system, or a vulnerability of aviation facilities, to attack. This includes, but is not limited

to, details of inspections, investigations, and alleged violations and findings of violations of 14 CFR parts 107, 108, or 109 and 14 CFR 129.25, 129.26, or 129.27 in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001); or parts 1540, 1542, 1544, 1546, 1548, or § 1550.5 of this chapter, and any information that could lead the disclosure of such details, as follows:

(1) As to events that occurred less than 12 months before the date of the release of the information, the following are not released: the name of an airport where a violation occurred, the regional identifier in the case number, a description of the violation, the regulation allegedly violated, and the identity of the aircraft operator in connection with specific locations or specific security procedures. TSA may release summaries of an aircraft operator's total security violations in a specified time range without identifying specific violations. Summaries may include total enforcement actions, total proposed civil penalty amounts, total assessed civil penalty amounts, number of cases opened, number of cases referred to TSA or FAA counsel for legal enforcement action, and number of cases closed.

(2) As to events that occurred 12 months or more before the date of the release of information, the specific gate or other location on an airport where an event occurred is not released.

(3) The identity of TSA or FAA special agent who conducted the investigation or inspection.

(4) Security information or data developed during TSA or FAA evaluations of the aircraft operators and airports and the implementation of the security programs, including aircraft operator and airport inspections and screening point tests or methods for evaluating such tests under the rules listed in § 1520.5(a)(1) through (6).

(i) As to release of information by TSA: Information concerning threats against transportation.

(j) Specific details of aviation security measures whether applied directly by the TSA or entities subject to the rules listed in § 1520.5(a)(1) through (6). This includes, but is not limited to, information concerning specific numbers of Federal Air Marshals, deployments or missions, and the methods involved in such operations.

(k) Any other information, the disclosure of which TSA has prohibited under the criteria of 49 U.S.C. 40119.

(l) Any draft, proposed, or recommended change to the information and records identified in this section.

(m) The locations at which particular screening methods or equipment are used under the rules listed in § 1520.5(a)(1) through (6) if TSA determines that the information meets the criteria of 49 U.S.C. 40119.

(n) Any screener test used under the rules listed in § 1520.5(a)(1) through (6).

(o) Scores of tests administered under the rules listed in § 1520.5(a)(1) through (6).

(p) Performance data from screening systems, and from testing of screening systems under the rules listed in § 1520.5(a)(1) through (6).

(q) Threat images and descriptions of threat images for threat image projection systems under the rules listed in § 1520.5(a)(1) through (6).

(r) Information in a vulnerability assessment that has been authorized, approved, or funded by DOT, irrespective of mode of transportation.

4. Add new subchapter C and part 1540 to Chapter XII.

SUBCHAPTER C—CIVIL AVIATION SECURITY

PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

Subpart A—General

Sec.

1540.1 Applicability of this subchapter and this part.

1540.3 Delegation of authority.

1540.5 Terms used in this subchapter.

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

1540.101 Applicability of this subpart.

1540.103 Fraud and intentional falsification of records.

1540.105 Security responsibilities of employees and other persons.

1540.107 Submission to screening and inspection.

1540.109 Prohibition against interference with screening personnel.

1540.111 Carriage of weapons, explosives, and incendiaries by individuals.

1540.113 Inspection of airman certificate.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

Subpart A—General

§ 1540.1 Applicability of this subchapter and this part.

This subchapter and this part apply to persons engaged in aviation-related activities.

§ 1540.3 Delegation of authority.

(a) Where the Under Secretary is named in this subchapter as exercising authority over a function, the authority is exercised by the Under Secretary or the Deputy Under Secretary, or any individual formally designated to act as

the Under Secretary or the Deputy Under Secretary.

(b) Where TSA or the designated official is named in this subchapter as exercising authority over a function, the authority is exercised by the official designated by the Under Secretary to perform that function.

§ 1540.5 Terms used in this subchapter.

In addition to the terms in part 1500 of this chapter, the following terms are used in this subchapter:

Air operations area (AOA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under 49 CFR part 1544 or 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the secured area.

Aircraft operator means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of aircraft, or on any part of the surface of an airport. In specific parts or sections of this subchapter, “aircraft operator” is used to refer to specific types of operators as described in those parts or sections.

Airport operator means a person that operates an airport serving a aircraft operator or a foreign air carrier required to have a security program under part 1544 or 1546 of this chapter.

Airport security program means a security program approved by TSA under § 1542.101 of this chapter.

Airport tenant means any person, other than an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter, that has an agreement with the airport operator to conduct business on airport property.

Airport tenant security program means the agreement between the airport operator and an airport tenant that specifies the measures by which the tenant will perform security functions, and approved by TSA, under § 1542.113 of this chapter.

Approved, unless used with reference to another person, means approved by TSA.

Cargo means property tendered for air transportation accounted for on an air waybill. All accompanied commercial courier consignments, whether or not accounted for on an air waybill, are also

classified as cargo. Aircraft operator security programs further define the term “cargo.”

Checked baggage means property tendered by or on behalf of a passenger and accepted by an aircraft operator for transport, which is inaccessible to passengers during flight. Accompanied commercial courier consignments are not classified as checked baggage.

Escort means to accompany or monitor the activities of an individual who does not have unescorted access authority into or within a secured area or SIDA.

Exclusive area means any portion of a secured area, AOA, or SIDA, including individual access points, for which an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter has assumed responsibility under § 1542.111 of this chapter.

Exclusive area agreement means an agreement between the airport operator and an aircraft operator or a foreign air carrier that has a security program under parts 1544 or 1546 of this chapter that permits such an aircraft operator or foreign air carrier to assume responsibility for specified security measures in accordance with § 1542.111 of this chapter.

FAA means the Federal Aviation Administration.

Indirect air carrier means any person or entity within the United States not in possession of an FAA air carrier operating certificate, that undertakes to engage indirectly in air transportation of property, and uses for all or any part of such transportation the services of a passenger air carrier. This does not include the United States Postal Service (USPS) or its representative while acting on the behalf of the USPS.

Loaded firearm means a firearm that has a live round of ammunition, or any component thereof, in the chamber or cylinder or in a magazine inserted in the firearm.

Passenger seating configuration means the total maximum number of seats for which the aircraft is type certificated that can be made available for passenger use aboard a flight, regardless of the number of seats actually installed, and includes that seat in certain aircraft that may be used by a representative of the FAA to conduct flight checks but is available for revenue purposes on other occasions.

Private charter means any aircraft operator flight—

(1) For which the charterer engages the total passenger capacity of the aircraft for the carriage of passengers; the passengers are invited by the charterer; the cost of the flight is borne

entirely by the charterer and not directly or indirectly by any individual passenger; and the flight is not advertised to the public, in any way, to solicit passengers.

(2) For which the total passenger capacity of the aircraft is used for the purpose of civilian or military air movement conducted under contract with the Government of the United States or the government of a foreign country.

Public charter means any charter flight that is not a private charter.

Scheduled passenger operation means an air transportation operation (a flight) from identified air terminals at a set time, which is held out to the public and announced by timetable or schedule, published in a newspaper, magazine, or other advertising medium.

Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

Screening location means each site at which individuals or property are inspected for the presence of weapons, explosives, or incendiaries.

Secured area means a portion of an airport, specified in the airport security program, in which certain security measures specified in part 1542 of this chapter are carried out. This area is where aircraft operators and foreign air carriers that have a security program under part 1544 or 1546 of this chapter enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security measures.

Security Identification Display Area (SIDA) means a portion of an airport, specified in the airport security program, in which security measures specified in this part are carried out. This area includes the secured area and may include other areas of the airport.

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

Unescorted access authority means the authority granted by an airport operator, an aircraft operator, foreign air carrier, or airport tenant under part 1542, 1544, or 1546 of this chapter, to individuals to gain entry to, and be present without an escort in, secured areas and SIDA's of airports.

Subpart B—Responsibilities of Passengers and Other Individuals and Persons

§ 1540.101 Applicability of this subpart.

This subpart applies to individuals and other persons.

§ 1540.103 Fraud and intentional falsification of records.

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this subchapter.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this subchapter, or exercise any privileges under this subchapter.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this subchapter.

§ 1540.105 Security responsibilities of employees and other persons.

(a) No person may:

(1) Tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with, compromise, modify, or attempt to circumvent any security system, measure, or procedure implemented under this subchapter.

(2) Enter, or be present within, a secured area, AOA, SIDA or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas.

(3) Use, allow to be used, or cause to be used, any airport-issued or airport-approved access medium or identification medium that authorizes the access, presence, or movement of persons or vehicles in secured areas, AOA's, or SIDA's in any other manner than that for which it was issued by the appropriate authority under this subchapter.

(b) The provisions of paragraph (a) of this section do not apply to conducting inspections or tests to determine compliance with this part or 49 U.S.C. Subtitle VII authorized by:

(1) TSA, or

(2) The airport operator, aircraft operator, or foreign air carrier, when acting in accordance with the procedures described in a security program approved by TSA.

§ 1540.107 Submission to screening and inspection.

No individual may enter a sterile area without submitting to the screening and inspection of his or her person and accessible property in accordance with the procedures being applied to control access to that area under this subchapter.

§ 1540.109 Prohibition against interference with screening personnel.

No person may interfere with, assault, threaten, or intimidate screening personnel in the performance of their screening duties under this subchapter.

§ 1540.111 Carriage of weapons, explosives, and incendiaries by individuals.

(a) *On an individual's person or accessible property—prohibitions.* Except as provided in paragraph (b) of this section, an individual may not have a weapon, explosive, or incendiary, on or about the individual's person or accessible property—

(1) When performance has begun of the inspection of the individual's person or accessible property before entering a sterile area;

(2) When the individual is entering or in a sterile area; or

(3) When the individual is attempting to board or onboard an aircraft for which screening is conducted under § 1544.201 or § 1546.201 of this chapter.

(b) *On an individual's person or accessible property—permitted carriage of a weapon.* Paragraph (a) of this section does not apply as to carriage of firearms and other weapons if the individual is one of the following:

(1) Law enforcement personnel required to carry a firearm or other weapons while in the performance of law enforcement duty at the airport.

(2) An individual authorized to carry a weapon in accordance with §§ 1544.219, 1544.221, 1544.223, or 1546.211 of this chapter.

(3) An individual authorized to carry a weapon in a sterile area under a security program.

(c) *In checked baggage.* A passenger may not transport or offer for transport in checked baggage:

(1) Any loaded firearm(s).

(2) Any unloaded firearm(s) unless—

(i) The passenger declares to the aircraft operator, either orally or in writing, before checking the baggage, that the passenger has a firearm in his or her bag and that it is unloaded;

(ii) The firearm is unloaded;

(iii) The firearm is carried in a hard-sided container; and

(iv) The container in which it is carried is locked, and only the passenger retains the key or combination.

(3) Any unauthorized explosive or incendiary.

(d) *Ammunition.* This section does not prohibit the carriage of ammunition in checked baggage or in the same container as a firearm. Title 49 CFR part 175 provides additional requirements governing carriage of ammunition on aircraft.

§ 1540.113 Inspection of airman certificate.

Each individual who holds an airman certificate, medical certificate, authorization, or license issued by the FAA must present it for inspection upon a request from TSA.

5. Add new part 1542 to Chapter XII, Subchapter C.

PART 1542—AIRPORT SECURITY

Subpart A—General

Sec.

1542.1 Applicability of this part.

1542.3 Airport security coordinator.

1542.5 Inspection authority.

Subpart B—Airport Security Program

1542.101 General requirements.

1542.103 Content.

1542.105 Approval and amendments.

1542.103 Changed conditions affecting security.

1542.109 Alternate means of compliance.

1542.111 Exclusive area agreements.

1542.113 Airport tenant security programs.

Subpart C—Operations

1542.201 Security of the secured area.

1542.203 Security of the air operations area (AOA).

1542.205 Security of the security identification display area (SIDA).

1542.207 Access control systems.

1542.209 Fingerprint-based criminal history records checks (CHRC).

1542.211 Identification systems.

1542.213 Training.

1542.215 Law enforcement support.

1542.217 Law enforcement personnel.

1542.219 Supplementing law enforcement personnel.

1542.221 Records of law enforcement response.

Subpart D—Contingency Measures

1542.301 Contingency plan.

1542.303 Security Directives and Information Circulars.

1542.305 Public advisories.

1542.307 Incident management.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44917, 44935–44936, 44942, 46105.

Subpart A—General

§ 1542.1 Applicability of this part.

This part describes aviation security rules governing:

(a) The operation of airports regularly serving aircraft operations required to be under a security program under part

1544 of this chapter, as described in this part.

(b) The operation of airport regularly serving foreign air carrier operations required to be under a security program under part 1546 of this chapter, as described in this part.

(c) Each airport operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular issued by the Designated official for Civil Aviation Security.

§ 1542.3 Airport security coordinator.

(a) Each airport operator must designate one or more Airport Security Coordinator(s) (ASC) in its security program.

(b) The airport operator must ensure that one or more ASCs:

(1) Serve as the airport operator's primary and immediate contact for security-related activities and communications with TSA. Any individual designated as an ASC may perform other duties in addition to those described in this paragraph (b).

(2) Is available to TSA on a 24-hour basis.

(3) Review with sufficient frequency all security-related functions to ensure that all are effective and in compliance with this part, its security program, and applicable Security Directives.

(4) Immediately initiate corrective action for any instance of non-compliance with this part, its security program, and applicable Security Directives.

(5) Review and control the results of employment history, verification, and criminal history records checks required under § 1542.209.

(6) Serve as the contact to receive notification from individuals applying for unescorted access of their intent to seek correction of their criminal history record with the FBI.

(c) After July 17, 2003, no airport operator may use, nor may it designate any person as, an ASC unless that individual has completed subject matter training, as specified in its security program, to prepare the individual to assume the duties of the position. The airport operator must maintain ASC training documentation until at least 180 days after the withdrawal of a individual's designation as an ASC.

(d) An individual's satisfactory completion of initial ASC training required under paragraph (c) of this section satisfies that requirement for all future ASC designations for that individual, except for site specific information, unless there has been a two

or more year break in service as an active and designated ASC.

§ 1542.5 Inspection authority.

(a) Each airport operator must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each airport operator must provide evidence of compliance with this part and its airport security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOA's, and SIDA's without access media or identification media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) At the request of TSA and upon the completion of SIDA training as required in a security program, each airport operator promptly must issue to TSA personnel access and identification media to provide TSA personnel with unescorted access to, and movement within, secured areas, AOA's, and SIDA's.

Subpart B—Airport Security Program

§ 1542.101 General requirements.

(a) No person may operate an airport subject to this part unless it adopts and carries out a security program that—

(1) Provides for the safety and security of persons and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence, aircraft piracy, and the introduction of an unauthorized weapon, explosive, or incendiary onto an aircraft;

(2) Is in writing and is signed by the airport operator;

(3) Includes the applicable items listed in § 1542.103;

(4) Includes an index organized in the same subject area sequence as § 1542.103; and

(5) Has been approved by TSA.

(b) The airport operator must maintain one current and complete copy of its security program and provide a copy to TSA upon request.

(c) Each airport operator must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information (SSI), as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer all requests for SSI by other persons to TSA.

§ 1542.103 Content.

(a) *Complete program.* Except as otherwise approved by TSA, each airport operator regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(a)(1) or § 1546.101(a) of this chapter, must include in its security program the following:

(1) The name, means of contact, duties, and training requirements of the ASC required under § 1542.3.

(2) [Reserved]

(3) A description of the secured areas, including—

(i) A description and map detailing boundaries and pertinent features;

(ii) Each activity or entity on, or adjacent to, a secured area that affects security;

(iii) Measures used to perform the access control functions required under § 1542.201(b)(1);

(iv) Procedures to control movement within the secured area, including identification media required under § 1542.201(b)(3); and

(v) A description of the notification signs required under § 1542.201(b)(6).

(4) A description of the AOA, including—

(i) A description and map detailing boundaries, and pertinent features;

(ii) Each activity or entity on, or adjacent to, an AOA that affects security;

(iii) Measures used to perform the access control functions required under § 1542.203(b)(1);

(iv) Measures to control movement within the AOA, including identification media as appropriate; and

(v) A description of the notification signs required under § 1542.203(b)(4).

(5) A description of the SIDA's, including—

(i) A description and map detailing boundaries and pertinent features; and

(ii) Each activity or entity on, or adjacent to, a SIDA.

(6) A description of the sterile areas, including—

(i) A diagram with dimensions detailing boundaries and pertinent features;

(ii) Access controls to be used when the passenger-screening checkpoint is non-operational and the entity responsible for that access control; and

(iii) Measures used to control access as specified in § 1542.207.

(7) Procedures used to comply with § 1542.209 regarding fingerprint-based criminal history records checks.

(8) A description of the personnel identification systems as described in § 1542.211.

(9) Escort procedures in accordance with § 1542.211(e).

(10) Challenge procedures in accordance with § 1542.211(d).

(11) Training programs required under §§ 1542.213 and 1542.217(c)(2), if applicable.

(12) A description of law enforcement support used to comply with § 1542.215(a).

(13) A system for maintaining the records described in § 1542.221.

(14) The procedures and a description of facilities and equipment used to support TSA inspection of individuals and property, and aircraft operator or foreign air carrier screening functions of parts 1544 and 1546 of this chapter.

(15) A contingency plan required under § 1542.301.

(16) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(17) Procedures for posting of public advisories as specified in § 1542.305.

(18) Incident management procedures used to comply with § 1542.307.

(19) Alternate security procedures, if any, that the airport operator intends to use in the event of natural disasters, and other emergency or unusual conditions.

(20) Each exclusive area agreement as specified in § 1542.111.

(21) Each airport tenant security program as specified in § 1542.113.

(b) *Supporting program.* Except as otherwise approved by TSA, each airport regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(a)(2) or (f), or § 1546.101(b) or (c) of this chapter, must include in its security program a description of the following:

(1) Name, means of contact, duties, and training requirements of the ASC, as required under § 1542.3.

(2) A description of the law enforcement support used to comply with § 1542.215(a).

(3) Training program for law enforcement personnel required under § 1542.217(c)(2), if applicable.

(4) A system for maintaining the records described in § 1542.221.

(5) The contingency plan required under § 1542.301.

(6) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(7) Procedures for public advisories as specified in § 1542.305.

(8) Incident management procedures used to comply with § 1542.307.

(c) *Partial program.* Except as otherwise approved by TSA, each airport regularly serving operations of an aircraft operator or foreign air carrier described in § 1544.101(b) or § 1546.101(d) of this chapter, must include in its security program a description of the following:

(1) Name, means of contact, duties, and training requirements of the ASC as required under § 1542.3.

(2) A description of the law enforcement support used to comply with § 1542.215(b).

(3) Training program for law enforcement personnel required under § 1542.217(c)(2), if applicable.

(4) A system for maintaining the records described in § 1542.221.

(5) Procedures for the distribution, storage, and disposal of security programs, Security Directives, Information Circulars, implementing instructions, and, as appropriate, classified information.

(6) Procedures for public advisories as specified in § 1542.305.

(7) Incident management procedures used to comply with § 1542.307.

(d) *Use of appendices.* The airport operator may comply with paragraphs (a), (b), and (c) of this section by including in its security program, as an appendix, any document that contains the information required by paragraphs (a), (b), and (c) of this section. The appendix must be referenced in the corresponding section(s) of the security program.

§ 1542.105 Approval and amendments.

(a) *Initial approval of security program.* Unless otherwise authorized by the designated official, each airport operator required to have a security program under this part must submit its initial proposed security program to the designated official for approval at least 90 days before the date any aircraft operator or foreign air carrier required to have a security program under part 1544 or part 1546 of this chapter is expected to begin operations. Such requests will be processed as follows:

(1) The designated official, within 30 days after receiving the proposed security program, will either approve the program or give the airport operator written notice to modify the program to comply with the applicable requirements of this part.

(2) The airport operator may either submit a modified security program to the designated official for approval, or petition the Under Secretary to reconsider the notice to modify within 30 days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an airport operator.* Except as provided in § 1542.103(c), an airport operator may submit a request to the designated official to amend its security program, as follows:

(1) The request for an amendment must be filed with the designated official at least 45 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 30 days after receiving a denial, the airport operator may petition the Under Secretary to reconsider the denial.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition within 30 days of receipt, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to approve the amendment or affirming the denial.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, the designated official may amend a security program as follows:

(1) The designated official sends to the airport operator a notice, in writing, of the proposed amendment, fixing a period of not less than 30 days within which the airport operator may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the airport operator of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 days after the airport operator receives the notice of

amendment, unless the airport operator petitions the Under Secretary to reconsider no later than 15 days before the effective date of the amendment. The airport operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice, or transmits the petition, together with any pertinent information to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* Notwithstanding paragraph (c) of this section, if the designated official finds that there is an emergency requiring immediate action with respect to safety and security in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, effective without stay on the date the airport operator receives the notice of it. In such a case, the designated official must incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The airport operator may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effective date of the emergency amendment.

§ 1542.107 Changed conditions affecting security.

(a) After approval of the security program, each airport operator must notify TSA when changes have occurred to the—

(1) Measures, training, area descriptions, or staffing, described in the security program;

(2) Operations of an aircraft operator or foreign air carrier that would require modifications to the security program as required under § 1542.103; or

(3) Layout or physical structure of any area under the control of the airport operator, airport tenant, aircraft operator, or foreign air carrier used to support the screening process, access, presence, or movement control functions required under part 1542, 1544, or 1546 of this chapter.

(b) Each airport operator must notify TSA no more than 6 hours after the discovery of any changed condition described in paragraph (a) of this section, or within the time specified in its security program, of the discovery of any changed condition described in

paragraph (a) of this section. The airport operator must inform TSA of each interim measure being taken to maintain adequate security until an appropriate amendment to the security program is approved. Each interim measure must be acceptable to TSA.

(c) For changed conditions expected to be less than 60 days duration, each airport operator must forward the information required in paragraph (b) of this section in writing to TSA within 72 hours of the original notification of the change condition(s). TSA will notify the airport operator of the disposition of the notification in writing. If approved by TSA, this written notification becomes a part of the airport security program for the duration of the changed condition(s).

(d) For changed conditions expected to be 60 days or more duration, each airport operator must forward the information required in paragraph (b) of this section in the form of a proposed amendment to the airport operator's security program, as required under § 1542.105. The request for an amendment must be made within 30 days of the discovery of the changed condition(s). TSA will respond to the request in accordance with § 1542.105.

§ 1542.109 Alternate means of compliance.

If in TSA's judgment, the overall safety and security of the airport, and aircraft operator or foreign air carrier operations are not diminished, TSA may approve a security program that provides for the use of alternate measures. Such a program may be considered only for an operator of an airport at which service by aircraft operators or foreign air carriers under part 1544 or 1546 of this chapter is determined by TSA to be seasonal or infrequent.

§ 1542.111 Exclusive area agreements.

(a) TSA may approve an amendment to an airport security program under which an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter assumes responsibility for specified security measures for all or portions of the secured area, AOA, or SIDA, including access points, as provided in § 1542.201, § 1542.203, or § 1542.205. The assumption of responsibility must be exclusive to one aircraft operator or foreign air carrier, and shared responsibility among aircraft operators or foreign air carriers is not permitted for an exclusive area.

(b) An exclusive area agreement must be in writing, signed by the airport operator and aircraft operator or foreign air carrier, and maintained in the airport

security program. This agreement must contain the following:

(1) A description, a map, and, where appropriate, a diagram of the boundaries and pertinent features of each area, including individual access points, over which the aircraft operator or foreign air carrier will exercise exclusive security responsibility.

(2) A description of the measures used by the aircraft operator or foreign air carrier to comply with § 1542.201, § 1542.203, or § 1542.205, as appropriate.

(3) Procedures by which the aircraft operator or foreign air carrier will immediately notify the airport operator and provide for alternative security measures when there are changed conditions as described in § 1542.103(a).

(c) Any exclusive area agreements in effect on November 14, 2001, must meet the requirements of this section and § 1544.227 no later than November 14, 2002.

§ 1542.113 Airport tenant security programs.

(a) TSA may approve an airport tenant security program as follows:

(1) The tenant must assume responsibility for specified security measures of the secured area, AOA, or SIDA as provided in §§ 1542.201, 1542.203, and 1542.205.

(2) The tenant may not assume responsibility for law enforcement support under § 1542.215.

(3) The tenant must assume the responsibility within the tenant's leased areas or areas designated for the tenant's exclusive use. A tenant may not assume responsibility under a tenant security program for the airport passenger terminal.

(4) Responsibility must be exclusive to one tenant, and shared responsibility among tenants is not permitted.

(5) TSA must find that the tenant is able and willing to carry out the airport tenant security program.

(b) An airport tenant security program must be in writing, signed by the airport operator and the airport tenant, and maintained in the airport security program. The airport tenant security program must include the following:

(1) A description and a map of the boundaries and pertinent features of each area over which the airport tenant will exercise security responsibilities.

(2) A description of the measures the airport tenant has assumed.

(3) Measures by which the airport operator will monitor and audit the tenant's compliance with the security program.

(4) Monetary and other penalties to which the tenant may be subject if it

fails to carry out the airport tenant security program.

(5) Circumstances under which the airport operator will terminate the airport tenant security program for cause.

(6) A provision acknowledging that the tenant is subject to inspection by TSA in accordance with § 1542.5.

(7) A provision acknowledging that individuals who carry out the tenant security program are contracted to or acting for the airport operator and are required to protect sensitive information in accordance with part 1520 of this chapter, and may be subject to civil penalties for failing to protect sensitive security information.

(8) Procedures by which the tenant will immediately notify the airport operator of and provide for alternative security measures for changed conditions as described in § 1542.103(a).

(c) If TSA has approved an airport tenant security program, the airport operator may not be found to be in violation of a requirement of this part in any case in which the airport operator demonstrates that:

(1) The tenant or an employee, permittee, or invitee of the tenant, is responsible for such violation; and

(2) The airport operator has complied with all measures in its security program to ensure the tenant has complied with the airport tenant security program.

(d) TSA may amend or terminate an airport tenant security program in accordance with § 1542.105.

Subpart C—Operations

§ 1542.201 Security of the secured area.

(a) Each airport operator required to have a security program under § 1542.103(a) must establish at least one secured area.

(b) Each airport operator required to establish a secured area must prevent and detect the unauthorized entry, presence, and movement of individuals and ground vehicles into and within the secured area by doing the following:

(1) Establish and carry out measures for controlling entry to secured areas of the airport in accordance with § 1542.207.

(2) Provide for detection of, and response to, each unauthorized presence or movement in, or attempted entry to, the secured area by an individual whose access is not authorized in accordance with its security program.

(3) Establish and carry out a personnel identification system described under § 1542.211.

(4) Subject each individual to employment history verification as

described in § 1542.209 before authorizing unescorted access to a secured area.

(5) Train each individual before granting unescorted access to the secured area, as required in § 1542.213(b).

(6) Post signs at secured area access points and on the perimeter that provide warning of the prohibition against unauthorized entry. Signs must be posted by each airport operator in accordance with its security program not later than November 14, 2003.

§ 1542.203 Security of the air operations area (AOA).

(a) Each airport operator required to have a security program under § 1542.103(a) must establish an AOA, unless the entire area is designated as a secured area.

(b) Each airport operator required to establish an AOA must prevent and detect the unauthorized entry, presence, and movement of individuals and ground vehicles into or within the AOA by doing the following:

(1) Establish and carry out measures for controlling entry to the AOA of the airport in accordance with § 1542.207.

(2) Provide for detection of, and response to, each unauthorized presence or movement in, or attempted entry to, the AOA by an individual whose access is not authorized in accordance with its security program.

(3) Provide security information as described in § 1542.213(c) to each individual with unescorted access to the AOA.

(4) Post signs on AOA access points and perimeters that provide warning of the prohibition against unauthorized entry to the AOA. Signs must be posted by each airport operator in accordance with its security program not later than November 14, 2003.

(5) If approved by TSA, the airport operator may designate all or portions of its AOA as a SIDA, or may use another personnel identification system, as part of its means of meeting the requirements of this section. If it uses another personnel identification system, the media must be clearly distinguishable from those used in the secured area and SIDA.

§ 1542.205 Security of the security identification display area (SIDA).

(a) Each airport operator required to have a security program under § 1542.103(a) must establish at least one SIDA. Each secured area must be a SIDA. Other areas of the airport may be SIDA's.

(b) Each airport operator required to establish a SIDA must establish and

carry out measures to prevent the unauthorized presence and movement of individuals in the SIDA and must do the following:

(1) Establish and carry out a personnel identification system described under § 1542.211.

(2) Subject each individual to employment history verification as described in § 1542.209 before authorizing unescorted access to a SIDA.

(3) Train each individual before granting unescorted access to the SIDA, as required in § 1542.213(b).

§ 1542.207 Access control systems.

(a) *Secured area.* Except as provided in paragraph (b) of this section, the measures for controlling entry to the secured area required under § 1542.201(b)(1) must—

(1) Ensure that only those individuals authorized to have unescorted access to the secured area are able to gain entry;

(2) Ensure that an individual is immediately denied entry to a secured area when that person's access authority for that area is withdrawn; and

(3) Provide a means to differentiate between individuals authorized to have access to an entire secured area and individuals authorized access to only a particular portion of a secured area.

(b) *Alternative systems.* TSA may approve an amendment to a security program that provides alternative measures that provide an overall level of security equal to that which would be provided by the measures described in paragraph (a) of this section.

(c) *Air operations area.* The measures for controlling entry to the AOA required under § 1542.203(b)(1) must incorporate accountability procedures to maintain their integrity.

(d) *Secondary access media.* An airport operator may issue a second access medium to an individual who has unescorted access to secured areas or the AOA, but is temporarily not in possession of the original access medium, if the airport operator follows measures and procedures in the security program that—

(1) Verifies the authorization of the individual to have unescorted access to secured areas or AOAs;

(2) Restricts the time period of entry with the second access medium;

(3) Retrieves the second access medium when expired;

(4) Deactivates or invalidates the original access medium until the individual returns the second access medium; and

(5) Provides that any second access media that is also used as identification media meet the criteria of § 1542.211(b).

§ 1542.209 Fingerprint-based criminal history records checks (CHRC).

(a) *Scope.* The following persons are within the scope of this section—

(1) Each airport operator and airport user.

(2) Each individual currently having unescorted access to a SIDA, and each individual with authority to authorize others to have unescorted access to a SIDA (referred to as unescorted access authority).

(3) Each individual seeking unescorted access authority.

(4) Each airport user and aircraft operator making a certification to an airport operator pursuant to paragraph (n) of this section, or 14 CFR 108.31(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001). An airport user, for the purposes of this section only, is any person other than an aircraft operator subject to § 1544.229 of this chapter making a certification under this section.

(b) *Individuals seeking unescorted access authority.* Except as provided in paragraph (m) of this section, each airport operator must ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section.

(c) *Individuals who have not had a CHRC.* (1) Except as provided in paragraph (m) of this section, each airport operator must ensure that after December 6, 2002, no individual retains unescorted access authority, unless the airport operator has obtained and submitted a fingerprint under this part.

(2) When a CHRC discloses a disqualifying criminal offense for which the conviction or finding of not guilty by reason of insanity was on or after December 6, 1991, the airport operator must immediately suspend that individual's authority.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty of by reason of insanity, of any of the disqualifying crimes listed in this paragraph (d) in any jurisdiction during the 10 years before the date of the individual's application for unescorted access authority, or while the individual has unescorted access authority. The disqualifying criminal offenses are as follows—

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the airport operator must

provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1542.209 (l) impose a continuing obligation to disclose to the airport operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has unescorted access authority. After February 17, 2002, the airport operator may use statements that have already been printed referring to 14 CFR 107.209 until stocks of such statements are used up.

(iv) A statement reading, “The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)”

(v) A line for the printed name of the individual.

(vi) A line for the individual's signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The airport operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The airport operator must advise the individual that:

(i) A copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) The ASC is the individual's point of contact if he or she has questions about the results of the CHRC.

(5) The airport operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation of the airport operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Airport operators must pay for all fingerprints in a form and manner approved by TSA.

The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available through the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual seeking unescorted access authority discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the airport operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting that authority. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual with unescorted access authority discloses an arrest for any disqualifying criminal offense without indicating a disposition, the airport operator must suspend the individual's unescorted access authority not later than 45 days after obtaining the CHRC unless the airport operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The airport operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, unescorted access authority, and who are not covered by a certification from an aircraft operator under paragraph (n) of this section. The airport operator may not make determinations for individuals described in § 1544.229 of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny unescorted access authority to an individual described in paragraph (b) of this section, the airport operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining unescorted access authority and provide the individual with a copy

of the FBI record if he or she requests it.

(2) The airport operator must notify an individual that a final decision has been made to grant or deny unescorted access authority.

(3) Immediately following the suspension of unescorted access authority of an individual, the airport operator must advise him or her that the FBI criminal record discloses information that disqualifies him or her from retaining unescorted access authority and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority on or after December 6, 2001, the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to granting unescorted access authority.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the airport operator may make a final determination to deny unescorted access authority.

(2) For an individual with unescorted access authority before December 6, 2001, the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the airport operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The airport operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating unescorted access authority.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 1544.229 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of other airport operators who are determining whether to grant unescorted access to the individual under this part.

(3) Aircraft operators who are determining whether to grant unescorted access to the individual or authorize the individual to perform screening functions under part 1544 of this chapter.

(4) Others designated by TSA.

(k) *Recordkeeping.* The airport operator must maintain the following information:

(1) *Investigations conducted before December 6, 2001.* The airport operator must maintain and control the access or employment history investigation files, including the criminal history records results portion, or the appropriate certifications, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* Except when the airport operator has received a certification under paragraph (n) of this section, the airport operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct airport operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Certification on or after December 6, 2001.* The airport operator must maintain the certifications provided under paragraph (n) of this section.

(4) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(5) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's unescorted access authority. When files are no longer maintained, the criminal record must be destroyed.

(l) *Continuing responsibilities.* (1) Each individual with unescorted access authority on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the airport operator and surrender the SIDA access medium to the issuer.

(2) Each individual with unescorted access authority who has a disqualifying criminal offense must report the offense to the airport operator and surrender the SIDA access medium to the issuer

within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the airport operator or the airport user indicating that an individual with unescorted access authority has a disqualifying criminal offense, the airport operator must determine the status of the conviction. If a disqualifying offense is confirmed the airport operator must immediately revoke any unescorted access authority.

(m) *Exceptions.* Notwithstanding the requirements of this section, an airport operator must authorize the following individuals to have unescorted access authority:

(1) An employee of the Federal, state, or local government (including a law enforcement officer) who, as a condition of employment, has been subjected to an employment investigation that includes a criminal records check.

(2) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access authority:

(i) An individual who has been continuously employed in a position requiring unescorted access authority by another airport operator, airport user, or aircraft operator, or contractor to such an entity, provided the grant for his or her unescorted access authority was based upon a fingerprint-based CHRC through TSA or FAA.

(ii) An individual who has been continuously employed by an aircraft operator or aircraft operator contractor, in a position with authority to perform screening functions, provided the grant for his or her authority to perform screening functions was based upon a fingerprint-based CHRC through TSA or FAA.

(n) *Certifications by aircraft operators.* An airport operator is in compliance with its obligation under paragraph (b) or (c) of this section when the airport operator accepts, for each individual seeking unescorted access authority, certification from an aircraft operator subject to part 1544 of this chapter indicating it has complied with § 1544.229 of this chapter for the aircraft operator's employees and contractors seeking unescorted access authority. If the airport operator accepts a certification from the aircraft operator, the airport operator may not require the aircraft operator to provide a copy of the CHRC.

(o) *Airport operator responsibility.*

The airport operator must—

(1) Designate the ASC, in the security program, or a direct employee if the ASC is not a direct employee, to be responsible for maintaining, controlling,

and destroying the criminal record files when their maintenance is no longer required by paragraph (k) of this section.

(2) Designate the ASC, in the security program, to serve as the contact to receive notification from individuals applying for unescorted access authority of their intent to seek correction of their FBI criminal record.

(3) Audit the employment history investigations performed by the airport operator in accordance with this section and 14 CFR 107.31 in effect prior to November 14, 2001 (see 14 CFR Parts 60 through 139 revised as of January 1, 2001), and those investigations conducted by the airport users who provided certification to the airport operator. The audit program must be set forth in the airport security program.

(p) *Airport user responsibility.* (1) The airport user must report to the airport operator information, as it becomes available, that indicates an individual with unescorted access authority may have a disqualifying criminal offense.

(2) The airport user must maintain and control, in compliance with paragraph (k) of this section, the employment history investigation files for investigations conducted before December 6, 2001, unless the airport operator decides to maintain and control the employment history investigation file.

(3) The airport user must provide the airport operator with either the name or title of the individual acting as custodian of the files described in this paragraph (p), the address of the location where the files are maintained, and the phone number of that location. The airport user must provide the airport operator and TSA with access to these files.

§ 1542.211 Identification systems.

(a) *Personnel identification system.* The personnel identification system under §§ 1542.201(b)(3) and 1542.205(b)(1) must include the following:

(1) Personnel identification media that—

(i) Convey a full-face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification

medium issued to that individual on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media and media of persons who no longer have unescorted access authority.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year or sooner, as necessary, to ensure the integrity and accountability of all identification media.

(v) As specified in the security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or otherwise unaccounted for, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time, except for personnel who are employed with more than one company and require additional identification media to carry out employment duties. A replacement identification medium may only be issued if an individual declares in writing that the medium has been lost, stolen, or destroyed.

(b) *Temporary identification media.* Each airport operator may issue personnel identification media in accordance with its security program to persons whose duties are expected to be temporary. The temporary identification media system must include procedures and methods to—

(1) Retrieve temporary identification media;

(2) Authorize the use of a temporary media for a limited time only;

(3) Ensure that temporary media are distinct from other identification media and clearly display an expiration date; and

(4) Ensure that any identification media also being used as an access media meet the criteria of § 1542.207(d).

(c) *Airport-approved identification media.* TSA may approve an amendment to the airport security program that provides for the use of identification media meeting the criteria of this section that are issued by entities other than the airport operator, as described in the security program.

(d) *Challenge program.* Each airport operator must establish and carry out a challenge program that requires each individual who has authorized unescorted access to secured areas and SIDA's to ascertain the authority of any

individual who is not displaying an identification medium authorizing the individual to be present in the area. The challenge program must include procedures to challenge individuals not displaying airport approved identification media. The procedure must—

(1) Apply uniformly in secured areas, SIDA's, and exclusive areas;

(2) Describe how to challenge an individual directly or report any individual not visibly displaying an authorized identification medium, including procedures to notify the appropriate authority; and

(3) Describe support of challenge procedures, including law enforcement and any other responses to reports of individuals not displaying authorized identification media.

(e) *Escorting.* Each airport operator must establish and implement procedures for escorting individuals who do not have unescorted access authority to a secured area or SIDA that—

(1) Ensure that only individuals with unescorted access authority are permitted to escort;

(2) Ensure that the escorted individuals are continuously accompanied or monitored while within the secured area or SIDA in a manner sufficient to identify whether the escorted individual is engaged in activities other than those for which escorted access was granted, and to take action in accordance with the airport security program;

(3) Identify what action is to be taken by the escort, or other authorized individual, should individuals under escort engage in activities other than those for which access was granted;

(4) Prescribe law enforcement support for escort procedures; and

(5) Ensure that individuals escorted into a sterile area without being screened under § 1544.201 of this chapter remain under escort until they exit the sterile area, or submit to screening pursuant to § 1544.201 or § 1546.201 of this chapter.

(f) *Effective date.* The identification systems described in this section must be implemented by each airport operator not later than November 14, 2003.

§ 1542.213 Training.

(a) Each airport operator must ensure that individuals performing security-related functions for the airport operator are briefed on the provisions of this part, Security Directives, and Information Circulars, and the security program, to the extent that such

individuals need to know in order to perform their duties.

(b) An airport operator may not authorize any individual unescorted access to the secured area or SIDA, except as provided in § 1542.5, unless that individual has successfully completed training in accordance with TSA-approved curriculum specified in the security program. This curriculum must detail the methods of instruction, provide attendees with an opportunity to ask questions, and include at least the following topics—

(1) The unescorted access authority of the individual to enter and be present in various areas of the airport;

(2) Control, use, and display of airport-approved access and identification media;

(3) Escort and challenge procedures and the law enforcement support for these procedures;

(4) Security responsibilities as specified in § 1540.105;

(5) Restrictions on divulging sensitive security information as described in part 1520 of this chapter; and

(6) Any other topics specified in the security program.

(c) An airport operator may not authorize any individual unescorted access to the AOA, except as provided in § 1542.5, unless that individual has been provided information in accordance with the security program, including—

(1) The unescorted access authority of the individual to enter and be present in various areas of the airport;

(2) Control, use, and display of airport-approved access and identification media, if appropriate;

(3) Escort and challenge procedures and the law enforcement support for these procedures, where applicable;

(4) Security responsibilities as specified in § 1540.105;

(5) Restrictions on divulging sensitive security information as described in part 1520 of this chapter; and

(6) Any other topics specified in the security program.

(d) Each airport operator must maintain a record of all training and information given to each individual under paragraphs (b) and (c) of this section for 180 days after the termination of that person's unescorted access authority.

(e) As to persons with unescorted access to the SIDA on November 14, 2001, training on responsibility under § 1540.105 can be provided by making relevant security information available.

(f) Training described in paragraph (c) of this section must be implemented by each airport operator not later than November 14, 2002.

§ 1542.215 Law enforcement support.

(a) In accordance with § 1542.217, each airport operator required to have a security program under § 1542.103(a) or (b) must provide:

(1) Law enforcement personnel in the number and manner adequate to support its security program.

(2) Uniformed law enforcement personnel in the number and manner adequate to support each system for screening persons and accessible property required under part 1544 or 1546 of this chapter, except to the extent that TSA provides Federal law enforcement support for the system.

(b) Each airport required to have a security program under § 1542.103(c) must ensure that:

(1) Law enforcement personnel are available and committed to respond to an incident in support of a civil aviation security program when requested by an aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter.

(2) The procedures by which to request law enforcement support are provided to each aircraft operator or foreign air carrier that has a security program under part 1544 or 1546 of this chapter.

§ 1542.217 Law enforcement personnel.

(a) Each airport operator must ensure that law enforcement personnel used to meet the requirements of § 1542.215, meet the following qualifications while on duty at the airport—

(1) Have arrest authority described in paragraph (b) of this section;

(2) Are identifiable by appropriate indicia of authority;

(3) Are armed with a firearm and authorized to use it; and

(4) Have completed a training program that meets the requirements of paragraphs (c) and (d) of this section.

(b) Each airport operator must ensure that each individual used to meet the requirements of § 1542.215 have the authority to arrest, with or without a warrant, while on duty at the airport for the following violations of the criminal laws of the State and local jurisdictions in which the airport is located—

(1) A crime committed in the presence of the individual; and

(2) A felony, when the individual has reason to believe that the suspect has committed it.

(c) The training program required by paragraph (a)(4) of this section must—

(1) Meet the training standard for law enforcement officers prescribed by either the State or local jurisdiction in which the airport is located for law enforcement officers performing comparable functions.

(2) Specify and require training standards for private law enforcement personnel acceptable to TSA, if the State and local jurisdictions in which the airport is located do not prescribe training standards for private law enforcement personnel that meets the standards in paragraph (a) of this section.

(3) Include training in—

(i) The use of firearms;

(ii) The courteous and efficient treatment of persons subject to inspection, detention, search, arrest, and other aviation security activities;

(iii) The responsibilities of law enforcement personnel under the security program; and

(iv) Any other subject TSA determines is necessary.

(d) Each airport operator must document the training program required by paragraph (a)(4) of this section and maintain documentation of training at a location specified in the security program until 180 days after the departure or removal of each person providing law enforcement support at the airport.

§ 1542.219 Supplementing law enforcement personnel.

(a) When TSA decides, after being notified by an airport operator as prescribed in this section, that not enough qualified State, local, and private law enforcement personnel are available to carry out the requirements of § 1542.215, TSA may authorize the airport operator to use, on a reimbursable basis, personnel employed by TSA, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality to supplement State, local, and private law enforcement personnel.

(b) Each request for the use of Federal personnel must be submitted to TSA and include the following information:

(1) The number of passengers enplaned at the airport during the preceding calendar year and the current calendar year as of the date of the request.

(2) The anticipated risk of criminal violence, sabotage, aircraft piracy, and other unlawful interference to civil aviation operations.

(3) A copy of that portion of the security program which describes the law enforcement support necessary to comply with § 1542.215.

(4) The availability of law enforcement personnel who meet the requirements of § 1542.217, including a description of the airport operator's efforts to obtain law enforcement

support from State, local, and private agencies and the responses of those agencies.

(5) The airport operator's estimate of the number of Federal personnel needed to supplement available law enforcement personnel and the period of time for which they are needed.

(6) A statement acknowledging responsibility for providing reimbursement for the cost of providing Federal personnel.

(7) Any other information TSA considers necessary.

(c) In response to a request submitted in accordance with this section, TSA may authorize, on a reimbursable basis, the use of personnel employed by a Federal agency, with the consent of the head of that agency.

§ 1542.221 Records of law enforcement response.

(a) Each airport operator must ensure that—

(1) A record is made of each law enforcement action taken in furtherance of this part; and

(2) The record is maintained for a minimum of 180 days.

(b) Data developed in response to paragraph (a) of this section must include at least the following, except as authorized by TSA:

(1) The number and type of weapons, explosives, or incendiaries discovered during any passenger-screening process, and the method of detection of each.

(2) The number of acts and attempted acts of aircraft piracy.

(3) The number of bomb threats received, real and simulated bombs found, and actual detonations on the airport.

(4) The number of arrests, including—

(i) Name, address, and the immediate disposition of each individual arrested;

(ii) Type of weapon, explosive, or incendiary confiscated, as appropriate; and

(iii) Identification of the aircraft operators or foreign air carriers on which the individual arrested was, or was scheduled to be, a passenger or which screened that individual, as appropriate.

Subpart D—Contingency Measures**§ 1542.301 Contingency plan.**

(a) Each airport operator required to have a security program under § 1542.103(a) and (b) must adopt a contingency plan and must:

(1) Implement its contingency plan when directed by TSA.

(2) Conduct reviews and exercises of its contingency plan as specified in the security program with all persons having responsibilities under the plan.

(3) Ensure that all parties involved know their responsibilities and that all information contained in the plan is current.

(b) TSA may approve alternative implementation measures, reviews, and exercises to the contingency plan which will provide an overall level of security equal to the contingency plan under paragraph (a) of this section.

§ 1542.303 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify airport operators of security concerns. When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) Each airport operator must comply with each Security Directive issued to the airport operator within the time prescribed in the Security Directive.

(c) Each airport operator that receives a Security Directive must—

(1) Within the time prescribed in the Security Directive, verbally acknowledge receipt of the Security Directive to TSA.

(2) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(d) In the event that the airport operator is unable to implement the measures in the Security Directive, the airport operator must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval. The airport operator must submit the proposed alternative measures within the time prescribed in the Security Directive. The airport operator must implement any alternative measures approved by TSA.

(e) Each airport operator that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

(f) Each airport operator that receives a Security Directive or an Information Circular and each person who receives information from a Security Directive or an Information Circular must:

(1) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with an operational need-to-know.

(2) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those who have an operational need to know without the prior written consent of TSA.

§ 1542.305 Public advisories.

When advised by TSA, each airport operator must prominently display and maintain in public areas information concerning foreign airports that, in the judgment of the Secretary of Transportation, do not maintain and administer effective security measures. This information must be posted in the manner specified in the security program and for such a period of time determined by the Secretary of Transportation.

§ 1542.307 Incident management.

(a) Each airport operator must establish procedures to evaluate bomb threats, threats of sabotage, aircraft piracy, and other unlawful interference to civil aviation operations.

(b) Immediately upon direct or referred receipt of a threat of any of the incidents described in paragraph (a) of this section, each airport operator must—

(1) Evaluate the threat in accordance with its security program;

(2) Initiate appropriate action as specified in the Airport Emergency Plan under 14 CFR 139.325; and

(3) Immediately notify TSA of acts, or suspected acts, of unlawful interference to civil aviation operations, including specific bomb threats to aircraft and airport facilities.

(c) Airport operators required to have a security program under § 1542.103(c) but not subject to 14 CFR part 139, must develop emergency response procedures to incidents of threats identified in paragraph (a) of this section.

(d) To ensure that all parties know their responsibilities and that all procedures are current, at least once every 12 calendar months each airport operator must review the procedures required in paragraphs (a) and (b) of this section with all persons having responsibilities for such procedures.

6. Add new part 1544 to Chapter XII, Subchapter C.

PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

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Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

Subpart A—General

§ 1544.1 Applicability of this part.

(a) This part prescribes aviation security rules governing the following:

(1) The operations of aircraft operators holding operating certificates under 14 CFR part 119 for scheduled passenger operations, public charter passenger operations, private charter passenger operations, and other aircraft operators

adopting and obtaining approval of an aircraft operator security program.

(2) Each law enforcement officer flying armed aboard an aircraft operated by an aircraft operator described in paragraph (a)(1) of this section.

(3) Each aircraft operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular issued by TSA.

(b) As used in this part, "aircraft operator" means an aircraft operator subject to this part as described in § 1544.101.

§ 1544.3 TSA inspection authority.

(a) Each aircraft operator must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each aircraft operator must provide evidence of compliance with this part and its security program, including copies of records.

(c) TSA may enter and be present within secured areas, AOA's, and SIDA's without access media or identification media issued or approved by an airport operator or aircraft operator, in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) At the request of TSA and the completion of SIDA training as required in a security program, each aircraft operator must promptly issue to TSA personnel access and identification media to provide TSA personnel with unescorted access to, and movement within, areas controlled by the aircraft operator under an exclusive area agreement.

Subpart B—Security Program

§ 1544.101 Adoption and implementation.

(a) *Full program.* Each aircraft operator must carry out subparts C, D, and E of this part and must adopt and carry out a security program that meets the requirements of § 1544.103 for each of the following operations:

(1) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of 61 or more seats.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of 60 or fewer seats when

passengers are enplaned from or deplaned into a sterile area.

(b) *Partial program—adoption.* Each aircraft operator must carry out the requirements specified in paragraph (c) of this section for each of the following operations:

(1) A scheduled passenger or public charter passenger operation with an aircraft having a passenger-seating configuration of 31 or more but 60 or fewer seats that does not enplane from or deplane into a sterile area.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger-seating configuration of 60 or fewer seats engaged in operations to, from, or outside the United States that does not enplane from or deplane into a sterile area.

(c) *Partial program—content.* For operations described in paragraph (b) of this section, the aircraft operator must carry out the following, and must adopt and carry out a security program that meets the applicable requirements of § 1544.103(c):

(1) The requirements of §§ 1544.215, 1544.217, 1544.219, 1544.235, 1544.301, 1544.303, and 1544.305.

(2) Such other provisions of subparts C, D, and E of this part as TSA has approved upon request.

(3) The remaining requirements of subparts C, D, and E of this part when TSA notifies the aircraft operator in writing that a security threat exists concerning that operation.

(d) [Reserved]

(e) [Reserved]

(f) *Private charter program.* Each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.211, 1544.213, 1544.215, 1544.217, 1544.219, 1544.229, 1544.233, 1544.235, 1544.303, and 1544.305, and subpart E of this part and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter operation in which passengers are enplaned from or deplaned into a sterile area.

(g) *Limited program.* TSA may approve a security program after receiving a request by an aircraft operator, holding a certificate under 14 CFR part 119 other than one identified in paragraph (a), (b), or (c) of this section. The aircraft operator must—

(1) Carry out selected provisions of subparts C, D, and E of this part,

(2) Carry out § 1544.305, as specified in its security program, and

(3) Adopt and carry out a security program that meets the applicable requirements of § 1544.103(c).

§ 1544.103 Form, content, and availability.

(a) *General requirements.* Each security program must:

(1) Provide for the safety of persons and property traveling on flights provided by the aircraft operator against acts of criminal violence and air piracy, and the introduction of explosives, incendiaries, or weapons aboard an aircraft.

(2) Be in writing and signed by the aircraft operator or any person delegated authority in this matter.

(3) Be approved by TSA.

(b) *Availability.* Each aircraft operator having a security program must:

(1) Maintain an original copy of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at each airport served. An electronic version of the program is adequate.

(3) Make a copy of the security program available for inspection upon request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in the security program to persons with a need-to-know as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

(c) *Content.* The security program must include, as specified for that aircraft operator in § 1544.101, the following:

(1) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.201 regarding the acceptance and screening of individuals and their accessible property.

(2) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.203 regarding the acceptance and screening of checked baggage.

(3) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.205 regarding the acceptance and screening of cargo.

(4) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.207 regarding the screening of individuals and property.

(5) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.209 regarding the use of metal detection devices.

(6) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.211 regarding the use of x-ray systems.

(7) The procedures and description of the facilities and equipment used to comply with the requirements of § 1544.213 regarding the use of explosives detection systems.

(8) The procedures used to comply with the requirements of § 1544.215 regarding the responsibilities of security coordinators. The names of the Aircraft Operator Security Coordinator (AOSC) and any alternate, and the means for contacting the AOSC(s) on a 24-hour basis, as provided in § 1544.215.

(9) The procedures used to comply with the requirements of § 1544.217 regarding the requirements for law enforcement personnel.

(10) The procedures used to comply with the requirements of § 1544.219 regarding carriage of accessible weapons.

(11) The procedures used to comply with the requirements of § 1544.221 regarding carriage of prisoners under the control of armed law enforcement officers.

(12) The procedures used to comply with the requirements of § 1544.223 regarding transportation of Federal Air Marshals.

(13) The procedures and description of the facilities and equipment used to perform the aircraft and facilities control function specified in § 1544.225.

(14) The specific locations where the air carrier has entered into an exclusive area agreement under § 1544.227.

(15) The procedures used to comply with the applicable requirements of § 1544.229 regarding fingerprint-based criminal history record checks.

(16) The procedures used to comply with the requirements of § 1544.231 regarding personnel identification systems.

(17) The procedures and syllabi used to accomplish the training required under § 1544.233.

(18) The procedures and syllabi used to accomplish the training required under § 1544.235.

(19) An aviation security contingency plan as specified under § 1544.301.

(20) The procedures used to comply with the requirements of § 1544.303 regarding bomb and air piracy threats.

§ 1544.105 Approval and amendments.

(a) *Initial approval of security program.* Unless otherwise authorized by TSA, each aircraft operator required to have a security program under this part must submit its proposed security program to the designated official for approval at least 90 days before the intended date of passenger operations. The proposed security program must meet the requirements applicable to its operation as described in § 1544.101.

Such requests will be processed as follows:

(1) The designated official, within 30 days after receiving the proposed aircraft operator security program, will either approve the program or give the aircraft operator written notice to modify the program to comply with the applicable requirements of this part.

(2) The aircraft operator may either submit a modified security program to the designated official for approval, or petition the Under Secretary to reconsider the notice to modify within 30 days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an aircraft operator.* An aircraft operator may submit a request to TSA to amend its security program as follows:

(1) The request for an amendment must be filed with the designated official at least 45 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to an aircraft operator security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 30 days after receiving a denial, the aircraft operator may petition the Under Secretary to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any aircraft operator may submit a group proposal for an amendment that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, TSA may amend a security program as follows:

(1) The designated official notifies the aircraft operator, in writing, of the proposed amendment, fixing a period of not less than 30 days within which the aircraft operator may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the aircraft operator of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 days after the aircraft operator receives the notice of amendment, unless the aircraft operator petitions the Under Secretary to reconsider no later than 15 days before the effective date of the amendment. The aircraft operator must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph (c) of this section, effective without stay on the date the aircraft operator receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The aircraft operator may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effective date of the emergency amendment.

Subpart C—Operations**§ 1544.201 Acceptance and screening of individuals and accessible property.**

(a) *Preventing or deterring the carriage of any explosive, incendiary, or deadly or dangerous weapon.* Each aircraft operator must use the measures in its security program to prevent or deter the carriage of any weapon, explosive, or incendiary on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

(b) *Screening of individuals and accessible property.* Except as provided in its security program, each aircraft operator must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in § 1544.207.

(c) *Refusal to transport.* Each aircraft operator must deny entry into a sterile area and must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Prohibitions on carrying a weapon, explosive, or incendiary.* Except as provided in §§ 1544.219, 1544.221, and 1544.223, no aircraft operator may permit any individual to have a weapon, explosive, or incendiary, on or about the individual's person or accessible property when onboard an aircraft.

(e) *Staffing.* Each aircraft operator must staff its security screening checkpoints with supervisory and non-supervisory personnel in accordance with the standards specified in its security program.

§ 1544.203 Acceptance and screening of checked baggage.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Acceptance.* Each aircraft operator must ensure that checked baggage carried in the aircraft is received by its authorized aircraft operator representative.

(c) *Screening of checked baggage.* Except as provided in its security

program, each aircraft operator must ensure that all checked baggage is inspected for explosives and incendiaries before loading it on its aircraft, in accordance with § 1544.207.

(d) *Control.* Each aircraft operator must use the procedures in its security program to control checked baggage that it accepts for transport on an aircraft, in a manner that:

(1) Prevents the unauthorized carriage of any explosive or incendiary aboard the aircraft.

(2) Prevents access by persons other than an aircraft operator employee or its agent.

(e) *Refusal to transport.* Each aircraft operator must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

(f) *Firearms in checked baggage.* No aircraft operator may knowingly permit any person to transport in checked baggage:

(1) Any loaded firearm(s).

(2) Any unloaded firearm(s) unless—

(i) The passenger declares to the aircraft operator, either orally or in writing before checking the baggage that any firearm carried in the baggage is unloaded;

(ii) The firearm is carried in a hard-sided container;

(iii) The container in which it is carried is locked, and only the individual checking the baggage retains the key or combination; and

(iv) The checked baggage containing the firearm is carried in an area that is inaccessible to passengers, and is not carried in the flightcrew compartment.

(3) Any unauthorized explosive or incendiary.

(g) *Ammunition.* This section does not prohibit the carriage of ammunition in checked baggage or in the same container as a firearm. Title 49 CFR part 175 provides additional requirements governing carriage of ammunition on aircraft.

§ 1544.205 Acceptance and screening of cargo.

(a) *General requirements.* Each aircraft operator must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of unauthorized explosives or incendiaries in cargo onboard a passenger aircraft.

(b) *Screening of cargo baggage.* Each aircraft operator must ensure that, as required in its security program, cargo is inspected for explosives and incendiaries before loading it on its aircraft in accordance with § 1544.207.

(c) *Control.* Each aircraft operator must use the procedures in its security program to control cargo that it accepts for transport on an aircraft in a manner that:

(1) Prevents the carriage of any unauthorized explosive or incendiary aboard the aircraft.

(2) Prevents access by persons other than an aircraft operator employee or its agent.

(d) *Refusal to transport.* Each aircraft operator must refuse to transport any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

§ 1544.207 Screening of individuals and property.

(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* Each aircraft operator must ensure that the individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

(c) *Aircraft operator conducting screening.* Each aircraft operator must use the measures in its security program and in subpart E of this part to inspect the individual or property. This paragraph does not apply at locations identified in paragraphs (b) and (d) of this section.

(d) *Locations outside the United States at which the foreign government conducts screening.* Each aircraft operator must ensure that all individuals and property have been inspected by the foreign government. This paragraph applies when the host government is conducting screening using government employees or when using companies under contract with the government.

§ 1544.209 Use of metal detection devices.

(a) No aircraft operator may use a metal detection device within the United States or under the aircraft operator's operational control outside the United States to inspect persons, unless specifically authorized under a security program under this part. No aircraft operator may use such a device contrary to its security program.

(b) Metal detection devices must meet the calibration standards established by TSA.

§ 1544.211 Use of X-ray systems.

(a) *TSA authorization required.* No aircraft operator may use any X-ray system within the United States or under the aircraft operator's operational control outside the United States to inspect accessible property or checked baggage, unless specifically authorized under its security program. No aircraft operator may use such a system in a manner contrary to its security program. TSA authorizes aircraft operators to use X-ray systems for inspecting accessible property or checked baggage under a security program if the aircraft operator shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792–88 (Reapproved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No aircraft operator may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No aircraft operator may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the aircraft operator shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No aircraft operator may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1)

At locations at which an aircraft operator uses an X-ray system to inspect accessible property the aircraft operator must ensure that a sign is posted in a conspicuous place at the screening checkpoint. At locations outside the United States at which a foreign government uses an X-ray system to inspect accessible property the aircraft operator must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which an aircraft operator or TSA uses an X-ray system to inspect checked baggage the aircraft operator must ensure that a sign is posted in a conspicuous place where the aircraft operator accepts checked baggage.

(3) The signs required under this paragraph (e) must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each aircraft operator must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The aircraft operator's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792–88 (Reapproved 1993), "Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas," is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792–88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT's

Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA–2001–8725). Copies of the standard may be examined also at the Office of the Federal Register, 800 North Capitol St., NW, Suite 700, Washington, DC. In addition, ASTM Standard F792–88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

(h) *Duty time limitations.* Each aircraft operator must comply with the X-ray operator duty time limitations specified in its security program.

§ 1544.213 Use of explosives detection systems.

(a) *Use of explosive detection equipment.* If TSA so requires by an amendment to an aircraft operator's security program, each aircraft operator required to conduct screening under a security program must use an explosives detection system approved by TSA to screen checked baggage on international flights.

(b) *Signs and inspection of photographic equipment and film.* (1) At locations at which an aircraft operator or TSA uses an explosives detection system that uses X-ray technology to inspect checked baggage the aircraft operator must ensure that a sign is posted in a conspicuous place where the aircraft operator accepts checked baggage. The sign must notify individuals that such items are being inspected by an explosives detection system and advise them to remove all X-ray, scientific, and high-speed film from checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an explosives detection system.

(2) If the explosives detection system exposes any checked baggage to more than one milliroentgen during the inspection the aircraft operator must post a sign which advises individuals to remove film of all kinds from their articles before inspection. If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an explosives detection system.

§ 1544.215 Security coordinators.

(a) *Aircraft Operator Security Coordinator.* Each aircraft operator must designate and use an Aircraft Operator Security Coordinator (AOSC). The AOSC and any alternates must be appointed at the corporate level and must serve as the aircraft operator's primary contact for security-related

activities and communications with TSA, as set forth in the security program. Either the AOSC, or an alternate AOSC, must be available on a 24-hour basis.

(b) *Ground Security Coordinator.* Each aircraft operator must designate and use a Ground Security Coordinator for each domestic and international flight departure to carry out the Ground Security Coordinator duties specified in the aircraft operator's security program. The Ground Security Coordinator at each airport must conduct the following daily:

(1) A review of all security-related functions for which the aircraft operator is responsible, for effectiveness and compliance with this part, the aircraft operator's security program, and applicable Security Directives.

(2) Immediate initiation of corrective action for each instance of noncompliance with this part, the aircraft operator's security program, and applicable Security Directives. At foreign airports where such security measures are provided by an agency or contractor of a host government, the aircraft operator must notify TSA for assistance in resolving noncompliance issues.

(c) *In-flight Security Coordinator.* Each aircraft operator must designate and use the pilot in command as the In-flight Security Coordinator for each domestic and international flight to perform duties specified in the aircraft operator's security program.

§ 1544.217 Law enforcement personnel.

(a) The following applies to operations at airports within the United States that are not required to hold a security program under part 1542 of this chapter.

(1) For operations described in § 1544.101(a) each aircraft operator must provide for law enforcement personnel meeting the qualifications and standards specified in §§ 1542.215 and 1542.217 of this chapter.

(2) For operations described in § 1544.101(b) or (c) each aircraft operator must—

(i) Arrange for law enforcement personnel meeting the qualifications and standards specified in § 1542.217 of this chapter to be available to respond to an incident; and

(ii) Provide its employees, including crewmembers, current information regarding procedures for obtaining law enforcement assistance at that airport.

(b) The following applies to operations at airports required to hold security programs under part 1542 of this chapter. For operations described in

§ 1544.101(c), each aircraft operator must—

(1) Arrange with TSA and the airport operator, as appropriate, for law enforcement personnel meeting the qualifications and standards specified in § 1542.217 of this chapter to be available to respond to incidents, and

(2) Provide its employees, including crewmembers, current information regarding procedures for obtaining law enforcement assistance at that airport.

§ 1544.219 Carriage of accessible weapons.

(a) *Flights for which screening is conducted.* The provisions of § 1544.201(d), with respect to accessible weapons, do not apply to a law enforcement officer (LEO) aboard a flight for which screening is required if the requirements of this section are met. Paragraph (a) of this section does not apply to a Federal Air Marshal on duty status under § 1544.223.

(1) Unless otherwise authorized by TSA, the armed LEO must meet the following requirements:

(i) Be a Federal law enforcement officer or a full-time municipal, county, or state law enforcement officer who is a direct employee of a government agency.

(ii) Be sworn and commissioned to enforce criminal statutes or immigration statutes.

(iii) Be authorized by the employing agency to have the weapon in connection with assigned duties.

(iv) Has completed the training program "Law Enforcement Officers Flying Armed."

(2) In addition to the requirements of paragraph (a)(1) of this section, the armed LEO must have a need to have the weapon accessible from the time he or she would otherwise check the weapon until the time it would be claimed after deplaning. The need to have the weapon accessible must be determined by the employing agency, department, or service and be based on one of the following:

(i) The provision of protective duty, for instance, assigned to a principal or advance team, or on travel required to be prepared to engage in a protective function.

(ii) The conduct of a hazardous surveillance operation.

(iii) On official travel required to report to another location, armed and prepared for duty.

(iv) Employed as a Federal LEO, whether or not on official travel, and armed in accordance with an agency-wide policy governing that type of travel established by the employing agency by directive or policy statement.

(v) Control of a prisoner, in accordance with § 1544.221, or an armed LEO on a round trip ticket returning from escorting, or traveling to pick up, a prisoner.

(vi) TSA Federal Air Marshal on duty status.

(3) The armed LEO must comply with the following notification requirements:

(i) All armed LEOs must notify the aircraft operator of the flight(s) on which he or she needs to have the weapon accessible at least 1 hour, or in an emergency as soon as practicable, before departure.

(ii) Identify himself or herself to the aircraft operator by presenting credentials that include a clear full-face picture, the signature of the armed LEO, and the signature of the authorizing official of the agency, service, or department or the official seal of the agency, service, or department. A badge, shield, or similar device may not be used, or accepted, as the sole means of identification.

(iii) If the armed LEO is a State, county, or municipal law enforcement officer, he or she must present an original letter of authority, signed by an authorizing official from his or her employing agency, service or department, confirming the need to travel armed and detailing the itinerary of the travel while armed.

(iv) If the armed LEO is an escort for a foreign official then this paragraph (a)(3) may be satisfied by a State Department notification.

(4) The aircraft operator must do the following:

(i) Obtain information or documentation required in paragraphs (a)(3)(ii), (iii), and (iv) of this section.

(ii) Advise the armed LEO, before boarding, of the aircraft operator's procedures for carrying out this section.

(iii) Have the LEO confirm he/she has completed the training program "Law Enforcement Officers Flying Armed" as required by TSA, unless otherwise authorized by TSA.

(iv) Ensure that the identity of the armed LEO is known to the appropriate personnel who are responsible for security during the boarding of the aircraft.

(v) Notify the pilot in command and other appropriate crewmembers, of the location of each armed LEO aboard the aircraft. Notify any other armed LEO of the location of each armed LEO, including FAM's. Under circumstances described in the security program, the aircraft operator must not close the doors until the notification is complete.

(vi) Ensure that the information required in paragraphs (a)(3)(i) and (ii) of this section is furnished to the flight

crew of each additional connecting flight by the Ground Security Coordinator or other designated agent at each location.

(b) *Flights for which screening is not conducted.* The provisions of § 1544.201(d), with respect to accessible weapons, do not apply to a LEO aboard a flight for which screening is not required if the requirements of paragraphs (a)(1), (3), and (4) of this section are met.

(c) *Alcohol.* (1) No aircraft operator may serve any alcoholic beverage to an armed LEO.

(2) No armed LEO may:

(i) Consume any alcoholic beverage while aboard an aircraft operated by an aircraft operator.

(ii) Board an aircraft armed if they have consumed an alcoholic beverage within the previous 8 hours.

(d) *Location of weapon.* (1) Any individual traveling aboard an aircraft while armed must at all times keep their weapon:

(i) Concealed and out of view, either on their person or in immediate reach, if the armed LEO is not in uniform.

(ii) On their person, if the armed LEO is in uniform.

(2) No individual may place a weapon in an overhead storage bin.

§ 1544.221 Carriage of prisoners under the control of armed law enforcement officers.

(a) This section applies as follows:

(1) This section applies to the transport of prisoners under the escort of an armed law enforcement officer.

(2) This section does not apply to the carriage of passengers under voluntary protective escort.

(3) This section does not apply to the escort of non-violent detainees of the Immigration and Naturalization Service. This section does not apply to individuals who may be traveling with a prisoner and armed escort, such as the family of a deportee who is under armed escort.

(b) For the purpose of this section:

(1) "High risk prisoner" means a prisoner who is an exceptional escape risk, as determined by the law enforcement agency, and charged with, or convicted of, a violent crime.

(2) "Low risk prisoner" means any prisoner who has not been designated as "high risk."

(c) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft for which screening is required unless, in addition to the requirements in § 1544.219, the following requirements are met:

(1) The agency responsible for control of the prisoner has determined whether

the prisoner is considered a high risk or a low risk.

(2) Unless otherwise authorized by TSA, no more than one high risk prisoner may be carried on the aircraft.

(d) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft for which screening is required unless the following staffing requirements are met:

(1) A minimum of one armed law enforcement officer must control a low risk prisoner on a flight that is scheduled for 4 hours or less. One armed law enforcement officer may control no more than two low risk prisoners.

(2) A minimum of two armed law enforcement officers must control a low risk prisoner on a flight that is scheduled for more than 4 hours. Two armed law enforcement officers may control no more than two low risk prisoners.

(3) For high-risk prisoners:

(i) For one high-risk prisoner on a flight: A minimum of two armed law enforcement officers must control a high risk prisoner. No other prisoners may be under the control of those two armed law enforcement officers.

(ii) If TSA has authorized more than one high-risk prisoner to be on the flight under paragraph (c)(2) of this section, a minimum of one armed law enforcement officer for each prisoner and one additional armed law enforcement officer must control the prisoners. No other prisoners may be under the control of those armed law enforcement officers.

(e) An armed law enforcement officer who is escorting a prisoner—

(1) Must notify the aircraft operator at least 24 hours before the scheduled departure, or, if that is not possible as far in advance as possible of the following—

(i) The identity of the prisoner to be carried and the flight on which it is proposed to carry the prisoner; and

(ii) Whether or not the prisoner is considered to be a high risk or a low risk.

(2) Must arrive at the check-in counter at least 1 hour before to the scheduled departure.

(3) Must assure the aircraft operator, before departure, that each prisoner under the control of the officer(s) has been searched and does not have on or about his or her person or property anything that can be used as a weapon.

(4) Must be seated between the prisoner and any aisle.

(5) Must accompany the prisoner at all times, and keep the prisoner under control while aboard the aircraft.

(f) No aircraft operator may carry a prisoner in the custody of an armed law enforcement officer aboard an aircraft unless the following are met:

(1) When practicable, the prisoner must be boarded before any other boarding passengers and deplaned after all other deplaning passengers.

(2) The prisoner must be seated in a seat that is neither located in any passenger lounge area nor located next to or directly across from any exit and, when practicable, the aircraft operator should seat the prisoner in the rearmost seat of the passenger cabin.

(g) Each armed law enforcement officer escorting a prisoner and each aircraft operator must ensure that the prisoner is restrained from full use of his or her hands by an appropriate device that provides for minimum movement of the prisoner's hands, and must ensure that leg irons are not used.

(h) No aircraft operator may provide a prisoner under the control of a law enforcement officer—

(1) With food or beverage or metal eating utensils unless authorized to do so by the armed law enforcement officer.

(2) With any alcoholic beverage.

§ 1544.223 Transportation of Federal Air Marshals.

(a) A Federal Air Marshal on duty status may have a weapon accessible while aboard an aircraft for which screening is required.

(b) Each aircraft operator must carry Federal Air Marshals, in the number and manner specified by TSA, on each scheduled passenger operation, and public charter passenger operation designated by TSA.

(c) Each Federal Air Marshal must be carried on a first priority basis and without charge while on duty, including positioning and repositioning flights. When a Federal Air Marshal is assigned to a scheduled flight that is canceled for any reason, the aircraft operator must carry that Federal Air Marshal without charge on another flight as designated by TSA.

(d) Each aircraft operator must assign the specific seat requested by a Federal Air Marshal who is on duty status. If another LEO is assigned to that seat or requests that seat, the aircraft operator must inform the Federal Air Marshal. The Federal Air Marshal will coordinate seat assignments with the other LEO.

(e) The Federal Air Marshal identifies himself or herself to the aircraft operator by presenting credentials that include a clear, full-face picture, the signature of the Federal Air Marshal, and the signature of the FAA Administrator. A badge, shield, or similar device may not

be used or accepted as the sole means of identification.

(f) The requirements of § 1544.219(a) do not apply for a Federal Air Marshal on duty status.

(g) Each aircraft operator must restrict any information concerning the presence, seating, names, and purpose of Federal Air Marshals at any station or on any flight to those persons with an operational need to know.

(h) Law enforcement officers authorized to carry a weapon during a flight will be contacted directly by a Federal Air Marshal who is on that same flight.

§ 1544.225 Security of aircraft and facilities.

Each aircraft operator must use the procedures included, and the facilities and equipment described, in its security program to perform the following control functions with respect to each aircraft operation:

(a) Prevent unauthorized access to areas controlled by the aircraft operator under an exclusive area agreement in accordance with § 1542.111 of this chapter.

(b) Prevent unauthorized access to each aircraft.

(c) Conduct a security inspection of each aircraft before placing it into passenger operations if access has not been controlled in accordance with the aircraft operator security program and as otherwise required in the security program.

§ 1544.227 Exclusive area agreement.

(a) An aircraft operator that has entered into an exclusive area agreement with an airport operator, under § 1542.111 of this chapter must carry out that exclusive area agreement.

(b) The aircraft operator must list in its security program the locations at which it has entered into exclusive area agreements with an airport operator.

(c) The aircraft operator must provide the exclusive area agreement to TSA upon request.

(d) Any exclusive area agreements in effect on November 14, 2001, must meet the requirements of this section and § 1542.111 of this chapter no later than November 14, 2002.

§ 1544.229 Fingerprint-based criminal history records checks (CHRC): Unescorted access authority, authority to perform screening functions, and authority to perform checked baggage or cargo functions.

(a) *Scope.* The following individuals are within the scope of this section. Unescorted access authority, authority to perform screening functions, and authority to perform checked baggage or

cargo functions, are collectively referred to as “covered functions.”

(1) *New unescorted access authority or authority to perform screening functions.* (i) Each employee or contract employee covered under a certification made to an airport operator on or after December 6, 2001, pursuant to 14 CFR 107.209(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001) or § 1542.209(n) of this chapter.

(ii) Each individual issued on or after December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 1542.205 of this chapter (referred to as “unescorted access authority”).

(iii) Each individual, on or after December 6, 2001, granted authority to perform the following screening functions at locations within the United States (referred to as “authority to perform screening functions”)—

(A) Screening passengers or property that will be carried in a cabin of an aircraft of an aircraft operator required to screen passengers under this part.

(B) Serving as an immediate supervisor (checkpoint security supervisor (CSS)), and the next supervisory level (shift or site supervisor), to those individuals described in paragraph (a)(1)(iii)(A) of this section.

(2) *Current unescorted access authority or authority to perform screening functions.* (i) Each employee or contract employee covered under a certification made to an airport operator pursuant to 14 CFR 107.31(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), or pursuant to 14 CFR 107.209(n) in effect prior to December 6, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001).

(ii) Each individual who holds on December 6, 2001, an aircraft operator identification media that one or more airports accepts as airport-approved media for unescorted access authority within a security identification display area (SIDA), as described in § 1542.205 of this chapter.

(iii) Each individual who is performing on December 6, 2001, a screening function identified in paragraph (a)(1)(iii) of this section.

(3) *New authority to perform checked baggage or cargo functions.* Each individual who, on and after February 17, 2002, is granted the authority to perform the following checked baggage and cargo functions (referred to as “authority to perform checked baggage

or cargo functions”), except for individuals described in paragraph (a)(1) of this section:

(i) Screening of checked baggage or cargo of an aircraft operator required to screen passengers under this part, or serving as an immediate supervisor of such an individual.

(ii) Accepting checked baggage for transport on behalf of an aircraft operator required to screen passengers under this part.

(4) *Current authority to perform checked baggage or cargo functions.* Each individual who holds on February 17, 2002, authority to perform checked baggage or cargo functions, except for individuals described in paragraph (a)(1) or (2) of this section.

(b) *Individuals seeking unescorted access authority, authority to perform screening functions, or authority to perform checked baggage or cargo functions.* Each aircraft operator must ensure that each individual identified in paragraph (a)(1) or (3) of this section has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense, as described in paragraph (d) of this section, before—

(1) Making a certification to an airport operator regarding that individual;

(2) Issuing an aircraft operator identification medium to that individual;

(3) Authorizing that individual to perform screening functions; or

(4) Authorizing that individual to perform checked baggage or cargo functions.

(c) *Individuals who have not had a CHRC.* (1) *Deadline for conducting a CHRC.* Each aircraft operator must ensure that, on and after December 6, 2002:

(i) No individual retains unescorted access authority, whether obtained as a result of a certification to an airport operator under 14 CFR 107.31(n) in effect prior to November 14, 2001 (see 14 CFR parts 60 to 139 revised as of January 1, 2001), or under 14 CFR 107.209(n) in effect prior to December 6, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), or obtained as a result of the issuance of an aircraft operator's identification media, unless the individual has been subject to a fingerprint-based CHRC for unescorted access authority under this part.

(ii) No individual continues to have authority to perform screening functions described in paragraph (a)(1)(iii) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(iii) No individual continues to have authority to perform checked baggage or

cargo functions described in paragraph (a)(3) of this section, unless the individual has been subject to a fingerprint-based CHRC under this part.

(2) *Lookback for individuals with unescorted access authority or authority to perform screening functions.* When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after December 6, 1991, the aircraft operator must immediately suspend that individual's unescorted access authority or authority to perform screening functions.

(3) *Lookback for individuals with authority to perform checked baggage or cargo functions.* When a CHRC discloses a disqualifying criminal offense for which the conviction or finding was on or after February 17, 1992, the aircraft operator must immediately suspend that individual's authority to perform checked baggage or cargo functions.

(d) *Disqualifying criminal offenses.* An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty by reason of insanity, of any of the disqualifying crimes listed in this paragraph in any jurisdiction during the 10 years before the date of the individual's application for authority to perform covered functions, or while the individual has authority to perform covered functions. The disqualifying criminal offenses are as follows:

(1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U.S.C. 46306.

(2) Interference with air navigation; 49 U.S.C. 46308.

(3) Improper transportation of a hazardous material; 49 U.S.C. 46312.

(4) Aircraft piracy; 49 U.S.C. 46502.

(5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.

(6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.

(7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.

(8) Conveying false information and threats; 49 U.S.C. 46507.

(9) Aircraft piracy outside the special aircraft jurisdiction of the United States; 49 U.S.C. 46502(b).

(10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.

(11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.

(12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.

(13) Murder.

(14) Assault with intent to murder.

(15) Espionage.

(16) Sedition.

(17) Kidnapping or hostage taking.

(18) Treason.

(19) Rape or aggravated sexual abuse.

(20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.

(21) Extortion.

(22) Armed or felony unarmed robbery.

(23) Distribution of, or intent to distribute, a controlled substance.

(24) Felony arson.

(25) Felony involving a threat.

(26) Felony involving—

(i) Willful destruction of property;

(ii) Importation or manufacture of a controlled substance;

(iii) Burglary;

(iv) Theft;

(v) Dishonesty, fraud, or misrepresentation;

(vi) Possession or distribution of stolen property;

(vii) Aggravated assault;

(viii) Bribery; or

(ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.

(27) Violence at international airports; 18 U.S.C. 37.

(28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph (d).

(e) *Fingerprint application and processing.* (1) At the time of fingerprinting, the aircraft operator must provide the individual to be fingerprinted a fingerprint application that includes only the following—

(i) The disqualifying criminal offenses described in paragraph (d) of this section.

(ii) A statement that the individual signing the application does not have a disqualifying criminal offense.

(iii) A statement informing the individual that Federal regulations under 49 CFR 1544.229 impose a continuing obligation to disclose to the aircraft operator within 24 hours if he or she is convicted of any disqualifying criminal offense that occurs while he or she has authority to perform a covered function.

(iv) A statement reading, "The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement on this application can be punished by fine or imprisonment or both. (See section 1001 of Title 18 United States Code.)"

(v) A line for the printed name of the individual.

(vi) A line for the individual's signature and date of signature.

(2) Each individual must complete and sign the application prior to submitting his or her fingerprints.

(3) The aircraft operator must verify the identity of the individual through two forms of identification prior to fingerprinting, and ensure that the printed name on the fingerprint application is legible. At least one of the two forms of identification must have been issued by a government authority, and at least one must include a photo.

(4) The aircraft operator must:

(i) Advise the individual that a copy of the criminal record received from the FBI will be provided to the individual, if requested by the individual in writing; and

(ii) Identify a point of contact if the individual has questions about the results of the CHRC.

(5) The aircraft operator must collect, control, and process one set of legible and classifiable fingerprints under direct observation by the aircraft operator or a law enforcement officer.

(6) Fingerprints may be obtained and processed electronically, or recorded on fingerprint cards approved by the FBI and distributed by TSA for that purpose.

(7) The fingerprint submission must be forwarded to TSA in the manner specified by TSA.

(f) *Fingerprinting fees.* Aircraft operators must pay for all fingerprints in a form and manner approved by TSA. The payment must be made at the designated rate (available from the local TSA security office) for each set of fingerprints submitted. Information about payment options is available though the designated TSA headquarters point of contact. Individual personal checks are not acceptable.

(g) *Determination of arrest status.* (1) When a CHRC on an individual described in paragraph (a)(1) or (3) of this section discloses an arrest for any disqualifying criminal offense listed in paragraph (d) of this section without indicating a disposition, the aircraft operator must determine, after investigation, that the arrest did not result in a disqualifying offense before granting authority to perform a covered function. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(2) When a CHRC on an individual described in paragraph (a)(2) or (4) of this section discloses an arrest for any disqualifying criminal offense without

indicating a disposition, the aircraft operator must suspend the individual's authority to perform a covered function not later than 45 days after obtaining the CHRC unless the aircraft operator determines, after investigation, that the arrest did not result in a disqualifying criminal offense. If there is no disposition, or if the disposition did not result in a conviction or in a finding of not guilty by reason of insanity of one of the offenses listed in paragraph (d) of this section, the individual is not disqualified under this section.

(3) The aircraft operator may only make the determinations required in paragraphs (g)(1) and (g)(2) of this section for individuals for whom it is issuing, or has issued, authority to perform a covered function; and individuals who are covered by a certification from an aircraft operator under § 1542.209(n) of this chapter. The aircraft operator may not make determinations for individuals described in § 1542.209(a) of this chapter.

(h) *Correction of FBI records and notification of disqualification.* (1) Before making a final decision to deny authority to an individual described in paragraph (a)(1) or (3) of this section, the aircraft operator must advise him or her that the FBI criminal record discloses information that would disqualify him or her from receiving or retaining authority to perform a covered function and provide the individual with a copy of the FBI record if he or she requests it.

(2) The aircraft operator must notify an individual that a final decision has been made to grant or deny authority to perform a covered function.

(3) Immediately following the suspension of authority to perform a covered function, the aircraft operator must advise the individual that the FBI criminal record discloses information that disqualifies him or her from retaining his or her authority, and provide the individual with a copy of the FBI record if he or she requests it.

(i) *Corrective action by the individual.* The individual may contact the local jurisdiction responsible for the information and the FBI to complete or correct the information contained in his or her record, subject to the following conditions—

(1) For an individual seeking unescorted access authority or authority to perform screening functions on or after December 6, 2001; or an individual seeking authority to perform checked baggage or cargo functions on or after February 17, 2002; the following applies:

(i) Within 30 days after being advised that the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record or a certified true copy of the information from the appropriate court, prior to authority to perform a covered function.

(ii) If no notification, as described in paragraph (h)(1) of this section, is received within 30 days, the aircraft operator may make a final determination to deny authority to perform a covered function.

(2) For an individual with unescorted access authority or authority to perform screening functions before December 6, 2001; or an individual with authority to perform checked baggage or cargo functions before February 17, 2002; the following applies: Within 30 days after being advised of suspension because the criminal record received from the FBI discloses a disqualifying criminal offense, the individual must notify the aircraft operator in writing of his or her intent to correct any information he or she believes to be inaccurate. The aircraft operator must obtain a copy, or accept a copy from the individual, of the revised FBI record, or a certified true copy of the information from the appropriate court, prior to reinstating authority to perform a covered function.

(j) *Limits on dissemination of results.* Criminal record information provided by the FBI may be used only to carry out this section and § 1542.209 of this chapter. No person may disseminate the results of a CHRC to anyone other than:

(1) The individual to whom the record pertains, or that individual's authorized representative.

(2) Officials of airport operators who are determining whether to grant unescorted access to the individual under part 1542 of this chapter when the determination is not based on the aircraft operator's certification under § 1542.209(n) of this chapter.

(3) Other aircraft operators who are determining whether to grant authority to perform a covered function under this part.

(4) Others designated by TSA.

(k) *Recordkeeping.* The aircraft operator must maintain the following information.

(1) *Investigation conducted before December 6, 2001.* The aircraft operator must maintain and control the access or employment history investigation files, including the criminal history records

results portion, for investigations conducted before December 6, 2001.

(2) *Fingerprint application process on or after December 6, 2001.* The aircraft operator must physically maintain, control, and, as appropriate, destroy the fingerprint application and the criminal record. Only direct aircraft operator employees may carry out the responsibility for maintaining, controlling, and destroying criminal records.

(3) *Protection of records—all investigations.* The records required by this section must be maintained in a manner that is acceptable to TSA and in a manner that protects the confidentiality of the individual.

(4) *Duration—all investigations.* The records identified in this section with regard to an individual must be maintained until 180 days after the termination of the individual's authority to perform a covered function. When files are no longer maintained, the criminal record must be destroyed.

(l) *Continuing responsibilities.* (1) Each individual with unescorted access authority or the authority to perform screening functions on December 6, 2001, who had a disqualifying criminal offense in paragraph (d) of this section on or after December 6, 1991, must, by January 7, 2002, report the conviction to the aircraft operator and surrender the SIDA access medium to the issuer and cease performing screening functions, as applicable.

(2) Each individual with authority to perform a covered function who has a disqualifying criminal offense must report the offense to the aircraft operator and surrender the SIDA access medium to the issuer within 24 hours of the conviction or the finding of not guilty by reason of insanity.

(3) If information becomes available to the aircraft operator indicating that an individual with authority to perform a covered function has a possible conviction for any disqualifying criminal offense in paragraph (d) of this section, the aircraft operator must determine the status of the conviction. If a disqualifying criminal offense is confirmed the aircraft operator must immediately revoke any authority to perform a covered function.

(4) Each individual with authority to perform checked baggage or cargo functions on February 17, 2002, who had a disqualifying criminal offense in paragraph (d) of this section on or after February 17, 1992, must, by March 25, 2002, report the conviction to the aircraft operator and cease performing check baggage or cargo functions.

(m) *Aircraft operator responsibility.* The aircraft operator must—

(1) Designate an individual(s) to be responsible for maintaining and controlling the employment history investigations for those whom the aircraft operator has made a certification to an airport operator under 14 CFR 107.209(n) in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001), and for those whom the aircraft operator has issued identification media that are airport-accepted. The aircraft operator must designate a direct employee to maintain, control, and, as appropriate, destroy criminal records.

(2) Designate an individual(s) to maintain the employment history investigations of individuals with authority to perform screening functions whose files must be maintained at the location or station where the screener is performing his or her duties.

(3) Designate an individual(s) at appropriate locations to serve as the contact to receive notification from individuals seeking authority to perform covered functions of their intent to seek correction of their FBI criminal record.

(4) Audit the employment history investigations performed in accordance with this section and 14 CFR 108.33 in effect prior to November 14, 2001 (see 14 CFR Parts 60 to 139 revised as of January 1, 2001). The aircraft operator must set forth the audit procedures in its security program.

§ 1544.231 Airport-approved and exclusive area personnel identification systems.

(a) Each aircraft operator must establish and carry out a personnel identification system for identification media that are airport-approved, or identification media that are issued for use in an exclusive area. The system must include the following:

(1) Personnel identification media that—

(i) Convey a full face image, full name, employer, and identification number of the individual to whom the identification medium is issued;

(ii) Indicate clearly the scope of the individual's access and movement privileges;

(iii) Indicate clearly an expiration date; and

(iv) Are of sufficient size and appearance as to be readily observable for challenge purposes.

(2) Procedures to ensure that each individual in the secured area or SIDA continuously displays the identification medium issued to that individual on the outermost garment above waist level, or is under escort.

(3) Procedures to ensure accountability through the following:

(i) Retrieving expired identification media.

(ii) Reporting lost or stolen identification media.

(iii) Securing unissued identification media stock and supplies.

(iv) Auditing the system at a minimum of once a year, or sooner, as necessary to ensure the integrity and accountability of all identification media.

(v) As specified in the aircraft operator security program, revalidate the identification system or reissue identification media if a portion of all issued, unexpired identification media are lost, stolen, or unretrieved, including identification media that are combined with access media.

(vi) Ensure that only one identification medium is issued to an individual at a time. A replacement identification medium may only be issued if an individual declares in writing that the medium has been lost or stolen.

(b) The aircraft operator may request approval of a temporary identification media system that meets the standards in § 1542.211(b) of this chapter, or may arrange with the airport to use temporary airport identification media in accordance with that section.

(c) Each aircraft operator must submit a plan to carry out this section to TSA no later than May 13, 2002. Each aircraft operator must fully implement its plan no later than November 14, 2003.

§ 1544.233 Security coordinators and crewmembers, training.

(a) No aircraft operator may use any individual as a Ground Security Coordinator unless, within the preceding 12-calendar months, that individual has satisfactorily completed the security training as specified in the aircraft operator's security program.

(b) No aircraft operator may use any individual as an in-flight security coordinator or crewmember on any domestic or international flight unless, within the preceding 12-calendar months or within the time period specified in an Advanced Qualifications Program approved under SFAR 58 in 14 CFR part 121, that individual has satisfactorily completed the security training required by 14 CFR 121.417(b)(3)(v) or 135.331(b)(3)(v), and as specified in the aircraft operator's security program.

(c) With respect to training conducted under this section, whenever an individual completes recurrent training within one calendar month earlier, or one calendar month after the date it was required, that individual is considered to have completed the training in the calendar month in which it was required.

§ 1544.235 Training and knowledge for individuals with security-related duties.

(a) No aircraft operator may use any direct or contractor employee to perform any security-related duties to meet the requirements of its security program unless that individual has received training as specified in its security program including their individual responsibilities in § 1540.105 of this chapter.

(b) Each aircraft operator must ensure that individuals performing security-related duties for the aircraft operator have knowledge of the provisions of this part, applicable Security Directives and Information Circulars, the approved airport security program applicable to their location, and the aircraft operator's security program to the extent that such individuals need to know in order to perform their duties.

Subpart D—Threat and Threat Response

§ 1544.301 Contingency plan.

Each aircraft operator must adopt a contingency plan and must:

(a) Implement its contingency plan when directed by TSA.

(b) Ensure that all information contained in the plan is updated annually and that appropriate persons are notified of any changes.

(c) Participate in an airport-sponsored exercise of the airport contingency plan or its equivalent, as provided in its security program.

§ 1544.303 Bomb or air piracy threats.

(a) *Flight: Notification.* Upon receipt of a specific and credible threat to the security of a flight, the aircraft operator must—

(1) Immediately notify the ground and in-flight security coordinators of the threat, any evaluation thereof, and any measures to be applied; and

(2) Ensure that the in-flight security coordinator notifies all crewmembers of the threat, any evaluation thereof, and any measures to be applied; and

(3) Immediately notify the appropriate airport operator.

(b) *Flight: Inspection.* Upon receipt of a specific and credible threat to the security of a flight, each aircraft operator must attempt to determine whether or not any explosive or incendiary is present by doing the following:

(1) Conduct a security inspection on the ground before the next flight or, if the aircraft is in flight, immediately after its next landing.

(2) If the aircraft is on the ground, immediately deplane all passengers and submit that aircraft to a security search.

(3) If the aircraft is in flight, immediately advise the pilot in

command of all pertinent information available so that necessary emergency action can be taken.

(c) *Ground facility.* Upon receipt of a specific and credible threat to a specific ground facility at the airport, the aircraft operator must:

(1) Immediately notify the appropriate airport operator.

(2) Inform all other aircraft operators and foreign air carriers at the threatened facility.

(3) Conduct a security inspection.

(d) *Notification.* Upon receipt of any bomb threat against the security of a flight or facility, or upon receiving information that an act or suspected act of air piracy has been committed, the aircraft operator also must notify TSA. If the aircraft is in airspace under other than U.S. jurisdiction, the aircraft operator must also notify the appropriate authorities of the State in whose territory the aircraft is located and, if the aircraft is in flight, the appropriate authorities of the State in whose territory the aircraft is to land. Notification of the appropriate air traffic controlling authority is sufficient action to meet this requirement.

§ 1544.305 Security Directives and Information Circulars.

(a) TSA may issue an Information Circular to notify aircraft operators of security concerns. When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) Each aircraft operator required to have an approved aircraft operator security program must comply with each Security Directive issued to the aircraft operator by TSA, within the time prescribed in the Security Directive for compliance.

(c) Each aircraft operator that receives a Security Directive must—

(1) Within the time prescribed in the Security Directive, verbally acknowledge receipt of the Security Directive to TSA.

(2) Within the time prescribed in the Security Directive, specify the method by which the measures in the Security Directive have been implemented (or will be implemented, if the Security Directive is not yet effective).

(d) In the event that the aircraft operator is unable to implement the measures in the Security Directive, the aircraft operator must submit proposed alternative measures and the basis for submitting the alternative measures to TSA for approval. The aircraft operator must submit the proposed alternative

measures within the time prescribed in the Security Directive. The aircraft operator must implement any alternative measures approved by TSA.

(e) Each aircraft operator that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

(f) Each aircraft operator that receives a Security Directive or Information Circular and each person who receives information from a Security Directive or Information Circular must:

(1) Restrict the availability of the Security Directive or Information Circular, and information contained in either document, to those persons with an operational need-to-know.

(2) Refuse to release the Security Directive or Information Circular, and information contained in either document, to persons other than those with an operational need-to-know without the prior written consent of TSA.

Subpart E—Screener Qualifications When the Aircraft Operator Performs Screening

§ 1544.401 Applicability of this subpart.

(a) *Aircraft operator screening.* This subpart applies when the aircraft operator is conducting inspections as provided in § 1544.207(c).

(b) *Current screeners.* As used in this subpart, “current screener” means each individual who first performed screening functions before the date the aircraft operator must begin use of the new screener training program provided by TSA. Until November 19, 2002, each current screener must comply with § 1544.403. Until November 19, 2002, each aircraft operator must apply § 1544.403 for each current screener. On and after November 19, 2002, each such current screener must comply with §§ 1544.405 through 1544.411, and each aircraft operator must comply with §§ 1544.405 through 1544.411 for such individuals.

(c) *New screeners.* As used in this subpart, “new screener” means each individual who first performs screening functions on and after the date the aircraft operator must begin use of the new screener training program provided by TSA. Each aircraft operator must apply §§ 1544.405 through 1544.411 for individuals who first perform screening functions for new screeners.

§ 1544.403 Current screeners.

This section applies to current screeners. This section no longer applies on and after November 19, 2002.

(a) No aircraft operator may use any person to perform any screening function, unless that person has:

(1) A high school diploma, a General Equivalency Diploma, or a combination of education and experience that the aircraft operator has determined to have equipped the person to perform the duties of the position.

(2) Basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(i) Screeners operating X-ray equipment must be able to distinguish on the X-ray monitor the appropriate imaging standard specified in the aircraft operator's security program. Wherever the X-ray system displays colors, the operator must be able to perceive each color;

(ii) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies;

(iii) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment;

(iv) Screeners performing physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing; and

(v) Screeners who perform pat-downs or hand-held metal detector searches of persons must have sufficient dexterity and capability to thoroughly conduct those procedures over a person's entire body.

(3) The ability to read, speak, and write English well enough to—

(i) Carry out written and oral instructions regarding the proper performance of screening duties;

(ii) Read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

(iii) Provide direction to and understand and answer questions from English-speaking persons undergoing screening; and

(iv) Write incident reports and statements and log entries into security records in the English language.

(4) Satisfactorily completed all initial, recurrent, and appropriate specialized training required by the aircraft operator's security program, except as

provided in paragraph (b) of this section.

(b) The aircraft operator may use a person who has not completed the training required by paragraph (a)(4) of this section during the on-the-job portion of training to perform security functions provided that the person:

(1) Is closely supervised, and

(2) Does not make independent judgments as to whether persons or property may enter a sterile area or aircraft without further inspection.

(c) No aircraft operator must use a person to perform a screening function after that person has failed an operational test related to that function until that person has successfully completed the remedial training specified in the aircraft operator's security program.

(d) Each aircraft operator must ensure that a Ground Security Coordinator conducts and documents an annual evaluation of each individual assigned screening duties and may continue that individual's employment in a screening capacity only upon the determination by the Ground Security Coordinator that the individual:

(1) Has not suffered a significant diminution of any physical ability required to perform a screening function since the last evaluation of those abilities;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in its security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

(e) Paragraphs (a) through (d) of this section do not apply to those screening functions conducted outside the United States over which the aircraft operator does not have operational control. In the event the aircraft operator is unable to implement paragraphs (a) through (d) of this section for screening functions outside the United States, the aircraft operator must notify TSA of those aircraft operator stations so affected.

(f) At locations outside the United States where the aircraft operator has operational control over a screening function, the aircraft operator may use screeners who do not meet the requirements of paragraph (a)(3) of this section, provided that at least one representative of the aircraft operator who has the ability to functionally read and speak English is present while the aircraft operator's passengers are undergoing security screening.

§ 1544.405 New screeners: Qualifications of screening personnel.

(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§ 1544.405 through 1544.411. No aircraft operator may use such an individual to perform a screening function unless that person complies with the requirements of §§ 1544.405 through 1544.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that the TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the aircraft operator's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from

English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States where the aircraft operator has operational control over a screening function, the aircraft operator may use screeners who do not meet the requirements of paragraph (f) of this section, provided that at least one representative of the aircraft operator who has the ability to functionally read and speak English is present while the aircraft operator's passengers are undergoing security screening. At such locations the aircraft operator may use screeners who are not United States citizens.

§ 1544.407 New screeners: Training, testing, and knowledge of individuals who perform screening functions.

(a) *Training required.* Before performing screening functions, an individual must have completed initial, recurrent, and appropriate specialized training as specified in this section and the aircraft operator's security program. No aircraft operator may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in § 1544.409 (b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the aircraft operator's security program.

(c) *Classroom instruction.* Each screener must complete at least 40 hours of classroom instruction or successfully complete a program that TSA determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No aircraft operator may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each aircraft operator must ensure that individuals performing as screeners, screeners-in-charge, and checkpoint security supervisors for the aircraft operator have knowledge of the provisions of this part, the aircraft operator's security program, and applicable Security Directives and Information Circulars to the extent necessary to perform their duties.

(g) *Disclosure of sensitive security information during training.* The aircraft operator may not permit a trainee to have access to sensitive security information during screener training unless a criminal history records check has successfully been completed for that individual in accordance with § 1544.229, and the individual has no disqualifying criminal offense.

§ 1544.409 New screeners: Integrity of screener tests.

(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by the TSA, no person may—

(i) Copy or intentionally remove a test under this part;

(ii) Give to another or receive from another any part or copy of that test;

(iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or

(iv) Use any material or aid during the period that the test is being given.

(2) No person may take any part of that test on behalf of another person.

(3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).

(b) *Administering and monitoring screener tests.* (1) Each aircraft operator must notify TSA of the time and location at which it will administer each screener readiness test required under § 1544.405(d).

(2) Either TSA or the aircraft operator must administer and monitor the screener readiness test. Where more than one aircraft operator or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the aircraft operators or foreign air carriers to monitor the test for a trainee who will screen at that location.

(3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the aircraft operator must provide a direct employee to administer and monitor the screener readiness test.

(4) An aircraft operator employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be

familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1544.411 New screeners: Continuing qualifications for screening personnel.

(a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment, such as impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(b) *Training not complete.* An individual who has not completed the training required by § 1544.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—

(1) Is closely supervised; and

(2) Does not make independent

judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No aircraft operator may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the aircraft operator's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall receive an annual evaluation. The aircraft operator must ensure that a Ground Security Coordinator conducts and documents an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

(1) Continues to meet all qualifications and standards required to perform a screening function;

(2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the aircraft operator's security program; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

7. Add new part 1546 to Chapter XII, subchapter C.

PART 1546—FOREIGN AIR CARRIER SECURITY

Subpart A—General

Sec.

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Subpart C—Operations

1546.201 Acceptance and screening of individuals and accessible property.

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Subpart D—Threat and Threat Response

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1546.407 New screeners: Training, testing, and knowledge of individuals who perform screening functions.

1546.409 New screeners: Integrity of screener tests.

1546.411 New screeners: Continuing qualifications for screening personnel.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905–44907, 44914, 44916–44917, 44935–44936, 44942, 46105.

Subpart A—General

§ 1546.1 Applicability of this part.

This part prescribes aviation security rules governing the following:

(a) The operation within the United States of each foreign air carrier holding a permit issued by the Department of Transportation under 49 U.S.C. 41302 or other appropriate authority issued by the former Civil Aeronautics Board or the Department of Transportation.

(b) Each law enforcement officer flying armed aboard an aircraft operated by a foreign air carrier described in paragraph (a) of this section.

§ 1546.3 TSA inspection authority.

(a) Each foreign air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or other airport tenants with—

(1) This subchapter and any security program under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each foreign air carrier must provide evidence of compliance with this subchapter and its security program, including copies of records.

Subpart B—Security Program

§ 1546.101 Adoption and implementation.

Each foreign air carrier landing or taking off in the United States must adopt and carry out a security program, for each scheduled and public charter passenger operation, that meets the requirements of—

(a) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 61 or more seats;

(b) Section 1546.103(b) for each operation that will provide deplaned passengers access to a sterile area, or enplane passengers from a sterile area, when that access is not controlled by an aircraft operator using a security program under part 1544 of this chapter or a foreign air carrier using a security program under this part;

(c) Section 1546.103(b) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats for which TSA has notified the foreign air carrier in writing that a threat exists; and

(d) Section 1546.103(c) for each operation with an airplane having a passenger seating configuration of 31 or more seats but 60 or fewer seats, when TSA has not notified the foreign air carrier in writing that a threat exists with respect to that operation.

§ 1546.103 Form, content, and availability of security program.

(a) *General requirements.* The security program must be:

(1) Acceptable to TSA. A foreign air carrier's security program is acceptable only if TSA finds that the security program provides passengers a level of protection similar to the level of protection provided by U.S. air carriers serving the same airports. Foreign air carriers must employ procedures equivalent to those required of U.S. air carriers serving the same airport if TSA determines that such procedures are necessary to provide passengers a similar level of protection.

(2) In English unless TSA requests that the program be submitted in the official language of the foreign air carrier's country.

(b) *Content of security program.* Each security program required by § 1546.101(a), (b), or (c) must be designed to—

(1) Prevent or deter the carriage aboard airplanes of any unauthorized explosive, incendiary, or weapon on or about each individual's person or accessible property, except as provided in § 1546.201(d), through screening by

weapon-detecting procedures or facilities;

(2) Prohibit unauthorized access to airplanes;

(3) Ensure that checked baggage is accepted by a responsible agent of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its airplanes unless handled in accordance with the foreign air carrier's security procedures.

(c) *Law enforcement support.* Each security program required by § 1546.101(d) must include the procedures used to comply with the applicable requirements of § 1546.209 regarding law enforcement officers.

(d) *Availability.* Each foreign air carrier required to adopt and use a security program under this part must—

(1) Restrict the distribution, disclosure, and availability of sensitive security information, as defined in part 1520 of this chapter, to persons with a need to know; and

(2) Refer requests for sensitive security information by other persons to TSA.

§ 1546.105 Acceptance of and amendments to the security program.

(a) *Initial acceptance of security program.* Unless otherwise authorized by TSA, each foreign air carrier required to have a security program by this part must submit its proposed program to TSA at least 90 days before the intended date of passenger operations. TSA will notify the foreign air carrier of the security program's acceptability, or the need to modify the proposed security program for it to be acceptable under this part, within 30 days after receiving the proposed security program. The foreign air carrier may petition TSA to reconsider the notice to modify the security program within 30 days after receiving a notice to modify.

(b) *Amendment requested by a foreign air carrier.* A foreign air carrier may submit a request to TSA to amend its accepted security program as follows:

(1) The proposed amendment must be filed with the designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to a foreign air carrier security program may be approved if the designated official determines that safety and the public interest will allow it, and the proposed amendment provides the level of security required under this part.

(4) Within 45 calendar days after receiving a denial, the foreign air carrier may petition the Under Secretary to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment, or affirming the denial.

(6) Any foreign air carrier may submit a group proposal for an amendment that is on behalf of it and other aircraft operators that co-sign the proposal.

(c) *Amendment by TSA.* If the safety and the public interest require an amendment, the designated official may amend an accepted security program as follows:

(1) The designated official notifies the foreign air carrier, in writing, of the proposed amendment, fixing a period of not less than 45 calendar days within which the foreign air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the foreign air carrier of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 calendar days after the foreign air carrier receives the notice of amendment, unless the foreign air carrier petitions the Under Secretary to reconsider no later than 15 calendar days before the effective date of the amendment. The foreign air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the amendment, or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice

and comment procedures in paragraph (c) of this section, effective without stay on the date the foreign air carrier receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The foreign air carrier may file a petition for reconsideration under paragraph (c) of this section; however, this does not stay the effectiveness of the emergency amendment.

Subpart C—Operations

§ 1546.201 Acceptance and screening of individuals and accessible property.

(a) *Preventing or deterring the carriage of any explosive, incendiary, or weapon.* Unless otherwise authorized by TSA, each foreign air carrier must use the measures in its security program to prevent or deter the carriage of any explosive, incendiary, or weapon on or about each individual's person or accessible property before boarding an aircraft or entering a sterile area.

(b) *Screening of individuals and accessible property.* Except as provided in its security program, each foreign air carrier must ensure that each individual entering a sterile area at each preboard screening checkpoint for which it is responsible, and all accessible property under that individual's control, are inspected for weapons, explosives, and incendiaries as provided in § 1546.207.

(c) *Refusal to transport.* Each foreign air carrier conducting an operation for which a security program is required by § 1546.101(a), (b), or (c) must refuse to transport—

(1) Any individual who does not consent to a search or inspection of his or her person in accordance with the system prescribed in this part; and

(2) Any property of any individual or other person who does not consent to a search or inspection of that property in accordance with the system prescribed by this part.

(d) *Explosive, incendiary, weapon: Prohibitions and exceptions.* No individual may, while on board an aircraft being operated by a foreign air carrier in the United States, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph (d) does not apply to—

(1) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(2) Crewmembers and other individuals authorized by the foreign air carrier to carry arms.

§ 1546.203 Acceptance and screening of checked baggage.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each foreign air carrier must use the procedures, facilities, and equipment described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary onboard aircraft in checked baggage.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any individual's checked baggage or property if the individual does not consent to a search or inspection of that checked baggage or property in accordance with the system prescribed by this part.

(c) *Firearms in checked baggage.* No foreign air carrier may knowingly permit any person to transport, nor may any person transport, while aboard an aircraft being operated in the United States by that carrier, in checked baggage, a firearm, unless:

(1) The person has notified the foreign air carrier before checking the baggage that the firearm is in the baggage; and

(2) The baggage is carried in an area inaccessible to passengers.

§ 1546.205 Acceptance and screening of cargo.

(a) *General requirements.* Each foreign air carrier must use the procedures, facilities and equipment described in its security program to prevent or deter the carriage of unauthorized explosives or incendiaries in cargo onboard a passenger aircraft.

(b) *Refusal to transport.* Each foreign air carrier must refuse to transport any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with the system prescribed by this part.

§ 1546.207 Screening of individuals and property.

(a) *Applicability of this section.* This section applies to the inspection of individuals, accessible property, checked baggage, and cargo as required under this part.

(b) *Locations within the United States at which TSA conducts screening.* As required in its security program, each foreign air carrier must ensure that all individuals or property have been inspected by TSA before boarding or loading on its aircraft. This paragraph applies when TSA is conducting screening using TSA employees or when using companies under contract with TSA.

(c) *Foreign air carrier conducting screening.* Each foreign air carrier must use the measures in its security program to inspect the individual or property.

This paragraph does not apply at locations identified in paragraphs (b) of this section.

§ 1546.209 Use of X-ray systems.

(a) *TSA authorization required.* No foreign air carrier may use any X-ray system within the United States to screen accessible property or checked baggage, unless specifically authorized under its security program. No foreign air carrier may use such a system in a manner contrary to its security program. TSA authorizes foreign air carriers to use X-ray systems for inspecting accessible property or checked baggage under a security program if the foreign air carrier shows that—

(1) The system meets the standards for cabinet X-ray systems primarily for the inspection of baggage issued by the Food and Drug Administration (FDA) and published in 21 CFR 1020.40;

(2) A program for initial and recurrent training of operators of the system is established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons, explosives, and incendiaries; and

(3) The system meets the imaging requirements set forth in its security program using the step wedge specified in American Society for Testing Materials (ASTM) Standard F792–88 (Reapproved 1993). This standard is incorporated by reference in paragraph (g) of this section.

(b) *Annual radiation survey.* No foreign air carrier may use any X-ray system unless, within the preceding 12 calendar months, a radiation survey is conducted that shows that the system meets the applicable performance standards in 21 CFR 1020.40.

(c) *Radiation survey after installation or moving.* No foreign air carrier may use any X-ray system after the system has been installed at a screening point or after the system has been moved unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40. A radiation survey is not required for an X-ray system that is designed and constructed as a mobile unit and the foreign air carrier shows that it can be moved without altering its performance.

(d) *Defect notice or modification order.* No foreign air carrier may use any X-ray system that is not in full compliance with any defect notice or modification order issued for that system by the FDA, unless the FDA has advised TSA that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person.

(e) *Signs and inspection of photographic equipment and film.* (1) At locations at which a foreign air carrier uses an X-ray system to inspect accessible property the foreign air carrier must ensure that a sign is posted in a conspicuous place at the screening checkpoint.

(2) At locations at which a foreign air carrier or TSA uses an X-ray system to inspect checked baggage the foreign air carrier must ensure that a sign is posted in a conspicuous place where the foreign air carrier accepts checked baggage.

(3) The signs required under this paragraph must notify individuals that such items are being inspected by an X-ray and advise them to remove all X-ray, scientific, and high-speed film from accessible property and checked baggage before inspection. This sign must also advise individuals that they may request that an inspection be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any accessible property or checked baggage to more than one milliroentgen during the inspection, the sign must advise individuals to remove film of all kinds from their articles before inspection.

(4) If requested by individuals, their photographic equipment and film packages must be inspected without exposure to an X-ray system.

(f) *Radiation survey verification after installation or moving.* Each foreign air carrier must maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section and must make it available for inspection upon request by TSA at each of the following locations—

(1) The foreign air carrier's principal business office; and

(2) The place where the X-ray system is in operation.

(g) *Incorporation by reference.* The American Society for Testing and Materials (ASTM) Standard F792–88 (Reapproved 1993), “Standard Practice for Design and Use of Ionizing Radiation Equipment for the Detection of Items Prohibited in Controlled Access Areas,” is approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. ASTM Standard F792–88 may be examined at the Department of Transportation (DOT) Docket, 400 Seventh Street SW, Room Plaza 401, Washington, DC 20590, or on DOT's Docket Management System (DMS) web page at <http://dms.dot.gov/search> (under docket number FAA–2001–8725). Copies of the standard may be

examined also at the Office of the Federal Register, 800 North Capitol St., NW, Suite 700, Washington, DC. In addition, ASTM Standard F792–88 (Reapproved 1993) may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

(h) Each foreign air carrier must comply with the X-ray operator duty time limitations specified in its security program.

§ 1546.211 Law enforcement personnel.

(a) At airports within the United States not governed by part 1542 of this chapter, each foreign air carrier engaging in public charter passenger operations must—

(1) When using a screening system required by § 1546.101(a), (b), or (c), provide for law enforcement officers meeting the qualifications and standards, and in the number and manner, specified in part 1542; and

(2) When using an airplane having a passenger seating configuration of 31 or more but 60 or fewer seats for which a screening system is not required by § 1546.101(a), (b), or (c), arrange for law enforcement officers meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by part 1542 of this chapter, each foreign air carrier engaging in scheduled passenger operations or public charter passenger operations when using an airplane with a passenger seating configuration of 31 or more and 60 or fewer seats under § 1546.101(c), must arrange for law enforcement personnel meeting the qualifications and standards specified in part 1542 of this chapter to be available to respond to an incident and provide to appropriate employees, including crewmembers, current information with respect to procedures for obtaining law enforcement assistance at that airport.

Subpart D—Threat and Threat Response

§ 1546.301 Bomb or air piracy threats.

No foreign air carrier may land or take off an airplane in the United States, in passenger operations, after receiving a bomb or air piracy threat against that airplane, unless the following actions are taken:

(a) If the airplane is on the ground when a bomb threat is received and the next scheduled flight of the threatened airplane is to or from a place in the

United States, the foreign air carrier ensures that the pilot in command is advised to submit the airplane immediately for a security inspection and an inspection of the airplane is conducted before the next flight.

(b) If the airplane is in flight to a place in the United States when a bomb threat is received, the foreign air carrier ensures that the pilot in command is advised immediately to take the emergency action necessary under the circumstances and a security inspection of the airplane is conducted immediately after the next landing.

(c) If information is received of a bomb or air piracy threat against an airplane engaged in an operation specified in paragraph (a) or (b) of this section, the foreign air carrier ensures that notification of the threat is given to the appropriate authorities of the State in whose territory the airplane is located or, if in flight, the appropriate authorities of the State in whose territory the airplane is to land.

Subpart E—Screener Qualifications When the Foreign Air Carrier Conducts Screening

§ 1546.401 Applicability of this subpart.

(a) *Foreign air carrier screening.* This subpart applies when the foreign air carrier is conducting inspections as provided in § 1546.207(c).

(b) *Current screeners.* As used in this subpart, “current screener” means each individual who first performed screening functions before the date the foreign air carrier must begin use of the new screener training program provided by TSA. Until November 19, 2002, each current screener must comply with § 1546.403. Until November 19, 2002, each foreign air carrier must apply § 1546.403 for each current screener. On and after November 19, 2002, each current screener must comply with §§ 1546.405 through 1546.411, and each foreign air carrier must comply with §§ 1546.405 through 1546.411 for such individuals.

(c) *New screeners.* As used in this subpart, “new screener” means each individual who first performs screening functions on and after TSA orders the foreign air carrier to begin use of the new screener training program provided by TSA. Each foreign air carrier must apply §§ 1546.405 through 1546.411 for new screeners.

§ 1546.403 Current screeners.

The foreign air carrier must ensure that each current screener it uses to perform screening functions meet the qualifications and training standards set forth in its security program. This

section is no longer effective on and after November 19, 2002.

§ 1546.405 New screeners: Qualifications of screening personnel.

(a) No individual subject to this subpart may perform a screening function unless that individual has the qualifications described in §§ 1546.405 through 1546.411. No foreign air carrier may use such an individual to perform a screening function unless that person complies with the requirements of §§ 1546.405 through 1546.411.

(b) A screener must have a satisfactory or better score on a screener selection test administered by TSA.

(c) A screener must be a citizen of the United States.

(d) A screener must have a high school diploma, a General Equivalency Diploma, or a combination of education and experience that TSA has determined to be sufficient for the individual to perform the duties of the position.

(e) A screener must have basic aptitudes and physical abilities including color perception, visual and aural acuity, physical coordination, and motor skills to the following standards:

(1) Screeners operating screening equipment must be able to distinguish on the screening equipment monitor the appropriate imaging standard specified in the foreign air carrier's security program.

(2) Screeners operating any screening equipment must be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

(3) Screeners must be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment at an active screening location.

(4) Screeners who perform physical searches or other related operations must be able to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to screening.

(5) Screeners who perform pat-downs or hand-held metal detector searches of individuals must have sufficient dexterity and capability to thoroughly conduct those procedures over an individual's entire body.

(f) A screener must have the ability to read, speak, and write English well enough to—

(1) Carry out written and oral instructions regarding the proper performance of screening duties;

(2) Read English language identification media, credentials, airline tickets, documents, air waybills, invoices, and labels on items normally encountered in the screening process;

(3) Provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

(4) Write incident reports and statements and log entries into security records in the English language.

(g) At locations outside the United States that are the last point of departure to the United States, and where the foreign air carrier has operational control over a screening function, the foreign air carrier may use screeners who do not meet the requirements of paragraph (f) of this section. At such locations the foreign air carrier may use screeners who are not United States citizens.

§ 1546.407 New screeners: Training, testing, and knowledge of individuals who perform screening functions.

(a) *Training required.* Before performing screening functions, an individual must have completed initial, recurrent, and appropriate specialized training as specified in this section and the foreign air carrier's security program. No foreign air carrier may use any screener, screener in charge, or checkpoint security supervisor unless that individual has satisfactorily completed the required training. This paragraph does not prohibit the performance of screening functions during on-the-job training as provided in § 1544.409(b).

(b) *Use of training programs.* Training for screeners must be conducted under programs provided by TSA. Training programs for screeners-in-charge and checkpoint security supervisors must be conducted in accordance with the foreign air carrier's security program.

(c) *Classroom instruction.* Each screener must complete at least 40 hours of classroom instruction or successfully complete a program that TSA determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction.

(d) *Screener readiness test.* Before beginning on-the-job training, a screener trainee must pass the screener readiness test prescribed by TSA.

(e) *On-the-job training and testing.* Each screener must complete at least 60 hours of on-the-job training and must pass an on-the-job training test prescribed by TSA. No foreign air carrier may permit a screener trainee to exercise independent judgment as a screener, until the individual passes an on-the-job training test prescribed by TSA.

(f) *Knowledge requirements.* Each foreign air carrier must ensure that individuals performing as screeners,

screeners-in-charge, and checkpoint security supervisors for the foreign air carrier have knowledge of the provisions of this part, the foreign air carrier's security program, and applicable emergency amendments to the foreign air carrier's security program to the extent necessary to perform their duties.

§ 1546.409 New screeners: Integrity of screener tests.

(a) *Cheating or other unauthorized conduct.* (1) Except as authorized by TSA, no person may—

(i) Copy or intentionally remove a test under this part;

(ii) Give to another or receive from another any part or copy of that test;

(iii) Give help on that test to or receive help on that test from any person during the period that the test is being given; or

(iv) Use any material or aid during the period that the test is being given.

(2) No person may take any part of that test on behalf of another person.

(3) No person may cause, assist, or participate intentionally in any act prohibited by this paragraph (a).

(b) *Administering and monitoring screener tests.* (1) Each foreign air carrier must notify TSA of the time and location at which it will administer each screener readiness test required under § 1544.405 (d).

(2) Either TSA or the foreign air carrier must administer and monitor the screener readiness test. Where more than one foreign air carrier or foreign air carrier uses a screening location, TSA may authorize an employee of one or more of the foreign air carriers or foreign air carriers to monitor the test for a trainee who will screen at that location.

(3) If TSA or a representative of TSA is not available to administer and monitor a screener readiness test, the foreign air carrier must provide a direct employee to administer and monitor the screener readiness test.

(4) An foreign air carrier employee who administers and monitors a screener readiness test must not be an instructor, screener, screener-in-charge, checkpoint security supervisor, or other screening supervisor. The employee must be familiar with the procedures for administering and monitoring the test and must be capable of observing whether the trainee or others are engaging in cheating or other unauthorized conduct.

§ 1546.411 New screeners: Continuing qualifications for screening personnel.

(a) *Impairment.* No individual may perform a screening function if he or she shows evidence of impairment, such as

impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(b) *Training not complete.* An individual who has not completed the training required by § 1546.405 may be deployed during the on-the-job portion of training to perform security functions provided that the individual—

- (1) Is closely supervised; and
- (2) Does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

(c) *Failure of operational test.* No foreign air carrier may use an individual to perform a screening function after that individual has failed an operational test related to that function, until that individual has successfully completed the remedial training specified in the foreign air carrier's security program.

(d) *Annual proficiency review.* Each individual assigned screening duties shall receive an annual evaluation. The foreign air carrier must conduct and document an annual evaluation of each individual who performs screening functions. An individual who performs screening functions may not continue to perform such functions unless the evaluation demonstrates that the individual—

- (1) Continues to meet all qualifications and standards required to perform a screening function;
- (2) Has a satisfactory record of performance and attention to duty based on the standards and requirements in the foreign air carrier's security program; and
- (3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

8. Add new part 1548 to Chapter XII, subchapter C.

PART 1548—INDIRECT AIR CARRIER SECURITY

Sec.

- 1548.1 Applicability of this part.
- 1548.3 TSA inspection authority.
- 1548.5 Adoption and implementation of the security program.
- 1548.7 Approval and amendments of the security program.
- 1548.9 Acceptance of cargo.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

§ 1548.1 Applicability of this part.

This part prescribes aviation security rules governing each indirect air carrier engaged indirectly in the air transportation of property on passenger aircraft.

§ 1548.3 TSA inspection authority.

(a) Each indirect air carrier must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or airport tenant with—

- (1) This subchapter, and any security program approved under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each indirect air carrier must provide evidence of compliance with this subchapter and its indirect air carrier security program, including copies of records.

§ 1548.5 Adoption and implementation of the security program.

(a) *Security program required.* Each indirect air carrier must adopt and carry out a security program that meets the requirements of this section.

(b) *General requirements.* The security program must:

- (1) Provide for the safety of persons and property traveling in air transportation against acts of criminal violence and air piracy and the introduction of any unauthorized explosive or incendiary into cargo aboard a passenger aircraft.

(2) Be in writing and signed by the indirect air carrier.

(3) Be approved by TSA.

(c) *Content.* Each security program under this part must—

- (1) Be designed to prevent or deter the unauthorized introduction of any explosive or incendiary device into any package cargo intended for carriage by air;

(2) Include the procedures and description of the facilities and equipment used to comply with the requirements of § 1548.9 regarding the acceptance of cargo.

(d) *Availability.* Each indirect air carrier having a security program must:

- (1) Maintain an original of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at each office where cargo is accepted. An electronic version is adequate.

(3) Make a copy of the security program available for inspection upon the request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in its security program to persons with a need to know, as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

§ 1548.7 Approval and amendments of the security program.

(a) *Initial approval of security program.* Unless otherwise authorized by TSA, each indirect air carrier required to have a security program under this part must submit its proposed security program to the designated official for approval at least 90 calendar days before the date of intended operations. The proposed security program must meet the requirements applicable to its operation as described in § 1540.5. Such request will be processed as follows:

(1) The designated official, within 30 calendar days after receiving the proposed indirect air carrier security program, will either approve the program or give the indirect air carrier written notice to modify the program to comply with the applicable requirements of this part.

(2) The indirect air carrier may either submit a modified security program to the designated official for approval, or petition the Under Secretary to reconsider the notice to modify within 30 calendar days of receiving a notice to modify. A petition for reconsideration must be filed with the designated official.

(3) The designated official, upon receipt of a petition for reconsideration, either amends or withdraws the notice, or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the notice to modify, or by affirming the notice to modify.

(b) *Amendment requested by an indirect air carrier.* An indirect air carrier may submit a request to the designated official to amend its security program as follows:

(1) The request for amendment must be filed with the designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the designated official.

(2) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(3) An amendment to an indirect air carrier security program may be approved if the designated official determines that safety and the public interest will allow it, and if the

proposed amendment provides the level of security required under this part.

(4) Within 30 calendar days after receiving a denial, the indirect air carrier may petition the Under Secretary to reconsider the denial. A petition for reconsideration must be filed with the designated official.

(5) Upon receipt of a petition for reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary will dispose of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment or by affirming the denial.

(c) *Amendment by TSA.* If safety and the public interest require an amendment, the designated official may amend a security program as follows:

(1) The designated official notifies the indirect air carrier, in writing, of the proposed amendment, fixing a period of not less than 30 calendar days within which the indirect air carrier may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the indirect air carrier of any amendment adopted or rescinds the notice. If the amendment is adopted, it becomes effective not less than 30 calendar days after the indirect air carrier receives the notice of amendment, unless the indirect air carrier petitions the Under Secretary to reconsider no later than 15 calendar days before the effective date of the amendment. The indirect air carrier must send the petition for reconsideration to the designated official. A timely petition for reconsideration stays the effective date of the amendment.

(3) Upon receipt of a petition for reconsideration, the designated official either amends or withdraws the notice or transmits the petition together, with any pertinent information, to the Under Secretary for reconsideration. The Under Secretary disposes of the petition within 30 calendar days of receipt by either directing the designated official to withdraw or amend the notice or by affirming the amendment.

(d) *Emergency amendments.* If the designated official finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes procedures in this section contrary to the public interest, the designated official may issue an amendment, without the prior notice and comment procedures in paragraph

(c) of this section, effective without stay on the date that the indirect air carrier receives notice of it. In such a case, the designated official will incorporate in the notice a brief statement of the reasons and findings for the amendment to be adopted. The indirect air carrier may file a petition for reconsideration under paragraph (c) of this section; however, this will not stay the effective date of the emergency amendment.

§ 1548.9 Acceptance of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each indirect air carrier must use the facilities, equipment, and procedures described in its security program to prevent or deter the carriage of any unauthorized explosive or incendiary on board a passenger aircraft in cargo.

(b) *Refusal to transport.* Each indirect air carrier must refuse to offer for transport on a passenger aircraft any cargo if the shipper does not consent to a search or inspection of that cargo in accordance with this part, and part 1544 or 1546 of this chapter. The indirect air carrier must search or inspect cargo, and must request the shipper for consent to search or inspect cargo, as provided in the indirect air carrier's security program.

9. Add new part 1550 to Chapter XII, subchapter C.

PART 1550—AIRCRAFT SECURITY UNDER GENERAL OPERATING AND FLIGHT RULES

Sec.

- 1550.1 Applicability of this part.
- 1550.3 TSA inspection authority.
- 1550.5 Operations using a sterile area.
- 1550.7 Operations in aircraft of 12,500 pounds or more.

Authority: 49 U.S.C. 114, 5103, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1550.1 Applicability of this part.

This part applies to the operation of aircraft for which there are no security requirements in other parts of this subchapter.

§ 1550.3 TSA inspection authority.

(a) Each aircraft operator subject to this part must allow TSA, at any time or place, to make any inspections or tests, including copying records, to determine compliance with—

(1) This subchapter and any security program or security procedures under this subchapter, and part 1520 of this chapter; and

(2) 49 U.S.C. Subtitle VII, as amended.

(b) At the request of TSA, each aircraft operator must provide evidence of compliance with this part and its

security program or security procedures, including copies of records.

§ 1550.5 Operations using a sterile area.

(a) *Applicability of this section.* This section applies to all aircraft operations in which passengers, crewmembers, or other individuals are enplaned from or deplaned into a sterile area, except for scheduled passenger operations, public charter passenger operations, and private charter passenger operations, that are in accordance with a security program issued under part 1544 or 1546 of this chapter.

(b) *Procedures.* Any person conducting an operation identified in paragraph (a) of this section must conduct a search of the aircraft before departure and must screen passengers, crewmembers, and other individuals and their accessible property (carry-on items) before boarding in accordance with security procedures approved by TSA.

(c) *Sensitive security information.* The security program procedures approved by TSA for operations specified in paragraph (a) of this section are sensitive security information. The operator must restrict the distribution, disclosure, and availability of information contained in the security procedures to persons with a need to know as described in part 1520 of this chapter.

(d) *Compliance date.* Persons conducting operations identified in paragraph (a) of this section must implement security procedures on October 6, 2001.

(e) *Waivers.* TSA may permit a person conducting an operation under this section to deviate from the provisions of this section if TSA finds that the operation can be conducted safely under the terms of the waiver.

§ 1550.7 Operations in aircraft of 12,500 pounds or more.

(a) *Applicability of this section.* This section applies to each aircraft operation conducted in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more except for those operations specified in § 1550.5 and those operations conducted under a security program under part 1544 or 1546 of this chapter.

(b) *Procedures.* Any person conducting an operation identified in paragraph (a) of this section must conduct a search of the aircraft before departure and screen passengers, crewmembers, and other persons and their accessible property (carry-on items) before boarding in accordance with security procedures approved by TSA.

(c) *Compliance date.* Persons identified in paragraph (a) of this section must implement security procedures when notified by TSA. TSA will notify operators by NOTAM, letter, or other communication when they must implement security procedures.

(d) *Waivers.* TSA may permit a person conducting an operation identified in this section to deviate from the provisions of this section if TSA finds that the operation can be conducted safely under the terms of the waiver.

Issued in Washington, DC, on February 14, 2002.

John W. Magaw,

Under Secretary of Transportation for Security.

[FR Doc. 02-4081 Filed 2-15-02; 12:14 pm]

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Federal Register

**Friday,
February 22, 2002**

Part III

Environmental Protection Agency

**40 CFR Parts 52, 70, and 71
Rulemaking on Section 126 Petitions
From New York and Connecticut
Regarding Sources in Michigan; Revision
of Definition of Applicable Requirement
for Title V Operating Permit Programs;
Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52, 70, and 71**

[FRL-7147-5]

RIN 2060-AJ36

Rulemaking on Section 126 Petitions From New York and Connecticut Regarding Sources in Michigan; Revision of Definition of Applicable Requirement for Title V Operating Permit Programs**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The EPA is proposing to revise one element of a final rule published on January 18, 2000, regarding petitions filed by four Northeastern States under section 126 of the Clean Air Act (CAA). The petitions seek to mitigate interstate transport of nitrogen oxides (NO_x), one of the main precursors of ground-level ozone pollution. The final rule partially approved the four petitions under the 1-hour ozone national ambient air quality standard, thereby requiring certain types of sources located in 12 States and the District of Columbia to reduce their NO_x emissions.

Subsequently, on March 3, 2000, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision on a related EPA regulatory action, the NO_x State implementation plan call (NO_x SIP call), that potentially affects the section 126 Rule. Although the court decision did not directly address the State of Michigan, the reasoning of the court regarding the significance of NO_x emissions from sources in two other States calls into question the inclusion of a portion of Michigan in the area covered by the NO_x SIP call. The section 126 Rule is based on many of the same analyses and information used for the NO_x SIP call and covers part of Michigan. Thus, in light of the court ruling, EPA is proposing to withdraw its section 126 findings and to deny the petitions under the 1-hour ozone standard with respect to sources located in the portion of Michigan that is at issue in the NO_x SIP call, known as the "coarse grid" part of that State. Although EPA has not identified any existing section 126 sources located in the coarse grid, this proposal would affect new sources locating in the coarse grid.

The EPA is also proposing to revise the definition of the "applicable requirement" for title V operating permit programs by providing expressly

that any standard or other requirement under section 126 is an applicable requirement and must be included in operating permits issued under title V of the CAA.

DATES: The comment period on this proposal ends on April 15, 2002. Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). A public hearing will be held on March 15, 2002 in Arlington, VA, if one is requested by March 7, 2002. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and hearing.

ADDRESSES: Comments may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-97-43, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, telephone (202) 260-7548. The EPA encourages electronic submission of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information should be submitted through e-mail.

Documents relevant to this action are available for inspection at the Docket Office, located at 401 M Street SW., Room M-1500, Washington, DC 20460, between 7:30 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

The public hearing, if requested, will be held at Crystal Mall 2 (Room 1110 "the fish bowl"), Crystal City, 1921 Jefferson Davis Hwy, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, 4930 Old Page Road, Research Triangle Park, NC, 27711, telephone (919) 541-3347, e-mail at oldham.carla@epa.gov.

SUPPLEMENTARY INFORMATION:**Public Hearing**

The EPA will conduct a public hearing on this proposal on March 15, 2002 beginning at 9:00 a.m., if requested by March 7, 2002. The EPA will not hold a hearing if one is not requested. Please check EPA's webpage at <http://www.epa.gov/ttn/rto/whatsnew.html> on March 11, 2002 for the announcement of whether the hearing will be held. If there is a public hearing, it will be held at Crystal Mall 2 (Room 1110 "the fish bowl"), Crystal City, 1921 Jefferson

Davis Hwy, Arlington, VA 22202. The Metro stop is Crystal City. If you want to request a hearing and present oral testimony at the hearing, you should notify, on or before March 7, 2002, JoAnn Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, 4930 Old Page Road, Research Triangle Park, NC 27711, telephone (919) 541-1815, e-mail allman.joann@epa.gov. Oral testimony will be limited to 5 minutes each. The hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket No. A-97-43 at the address given above for submittal of comments. The hearing schedule, including the list of speakers, will be posted on EPA's webpage at <http://www.epa.gov/ttn/rto/whatsnew.html>. A verbatim transcript of the hearing, if held, and written statements will be made available for copying during normal working hours at the Office of Air and Radiation Docket and Information Center address given above for inspection of documents.

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under docket number A-97-43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information, is available for inspection from 7:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemaking actions and associated documents are located at <http://www.epa.gov/ttn/rto/126>.

The EPA has issued a separate rule on NO_x transport entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone." The rulemaking docket for that rule (Docket No. A-96-56), hereafter referred to as the NO_x SIP call, contains information and analyses that EPA has relied upon in the section 126 rulemaking, and hence documents in that docket are part of the rulemaking record for this rule. Documents related to the NO_x SIP call

rulemaking are available for inspection in docket number A-96-56 at the address and times given above.

Submitting Electronic Comments

Electronic comments are encouraged and can be sent directly to EPA at *A-and-R-Docket@epa.gov*. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket number A-97-43. Electronic comments may be filed online at many Federal Depository Libraries.

Outline

I. Background

- A. What Does the May 1999 Section 126 Rule Do?
- B. How Did the January 2000 Rule Revise the May 1999 Rule?
 1. How Did the Court Ruling on the 8-Hour Standard Affect the May 1999 Section 126 Rule?
 2. How Did the Court Stay of the NO_x SIP Call Affect the Section 126 Rule?
- C. March 3, 2000 Court Decision on the NO_x SIP Call
 1. What is the Relevance of the NO_x SIP Call Court Decision to the Section 126 Rule?
 2. What is the NO_x SIP Call Litigation Regarding Coarse Grid Sources?
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II. Section 126 Proposal

- A. What is the Geographic Scope of the 1-Hour Findings for Michigan Sources?
- B. What is Today's Proposal on the Michigan Coarse Grid Sources Under the 1-Hour Standard?
- C. Is EPA Proposing Action Under the 8-Hour Standard on the Affirmative Technical Determinations that Affect Coarse Grid Sources?
- D. Does Today's Proposal Affect the Section 126 Requirements for Michigan Fine Grid Sources or Sources Located in Other States?

III. What is the Revision to the Definition of "Applicable Requirement" for Title V Operating Permit Programs?

IV. Administrative Requirements

- A. Executive Order 12866: Regulatory Planning and Review
- B. Unfunded Mandates Reform Act
- C. Executive Order 13132: Federalism
- D. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- E. Regulatory Flexibility Act
- F. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- G. National Technology Transfer and Advancement Act
- H. Paperwork Reduction Act
- I. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

I. Background

In final rules published on May 25, 1999 (64 FR 28250) (May 1999 Rule) and January 18, 2000 (65 FR 2674) (January 2000 Rule), EPA took action on petitions filed separately by eight Northeastern States under section 126 of the CAA. Each petition requested that EPA make a finding that certain stationary sources located in other specified States are emitting NO_x in amounts that significantly contribute to ozone nonattainment and maintenance problems in the petitioning State. All of the States directed their petitions at the 1-hour ozone standard. Five of the States also directed their petitions at the 8-hour ozone standard. The petitions targeted electric utilities, industrial boilers and turbines, and certain other stationary sources of NO_x. The States that submitted petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Pennsylvania, and Vermont.

Section 126 of the Clean Air Act (CAA) authorizes a downwind State to petition EPA for a finding that any new (or modified) or existing major stationary source or group of stationary sources upwind of the State emits or would emit in violation of the prohibition of section 110(a)(2)(D)(i) because their emissions contribute significantly to nonattainment, or interfere with maintenance, of a national ambient air quality standard in the State. Sections 110(a)(2)(D)(i), 126(b)-(c). If EPA makes the requested finding, the sources must shut down within 3 months from the finding unless EPA directly regulates the sources by establishing emissions limitations and a compliance schedule, extending no later than 3 years from the date of the finding, to eliminate the prohibited interstate transport of pollutants as expeditiously as possible. See sections 110(a)(2)(D)(i) and 126(c).

A. What Does the May 1999 Section 126 Rule Do?

In the May 1999 Rule, EPA determined which petitions were approvable based on their technical merit. The EPA made affirmative technical determinations that NO_x emissions from existing and new large electric generating units (EGUs) and large industrial boilers and turbines (non-EGUs) located in certain States identified in the petitions are significantly contributing to nonattainment in, or interfering with maintenance by, one or more of the petitioning States with respect to the 1-hour and/or 8-hour ozone standard. Separate determinations were made under the 1-hour and 8-hour standards.

The EPA deferred making the section 126 findings based on the affirmative technical determinations pending certain actions by EPA and the States with respect to the NO_x SIP call. Instead, according to the rule, the section 126 findings and associated control requirements would be automatically triggered at specific future dates if States and EPA failed to stay on track to meet the SIP call obligations. In the May 1999 Rule, EPA also denied the portions of the petitions that did not have technical merit.

In evaluating the petitions, EPA relied on the analyses and information from the NO_x SIP call.

B. How Did the January 2000 Rule Revise the May 1999 Rule?

Shortly after EPA issued the May 1999 Rule (which was signed by the Administrator on April 30, 1999), two separate rulings by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) affected the Rule. In light of the court rulings, on January 18, 2000 EPA published a final rule (January 2000 Rule) which modified two aspects of the May 1999 Rule.

1. How Did the Court Ruling on the 8-Hour Standard Affect the May 1999 Section 126 Rule?

In one of the court rulings, issued on May 14, 1999, the D.C. Circuit questioned the constitutionality of the CAA authority to review and revise the national ambient air quality standards (NAAQS), as applied by EPA in its promulgation of the 8-hour ozone standard (as well as the particulate matter NAAQS). See *American Trucking Ass'n v. EPA*, 175 F.3d 1027 (D.C. Cir.), modified, 195 F.3d 4 (D.C. Cir. 1999), cert. granted, 68 U.S.C.W. 3724 (May 22, 2000), 68 U.S.C.W. 3739 (May 30, 2000). The court's ruling curtailed EPA's ability to require States to comply with a more stringent ozone NAAQS. On October 29, 1999, the D.C. Circuit granted in part and denied in part EPA's rehearing request.

On January 27, 2000, the Administration filed a petition of certiorari with the Supreme Court seeking review of this opinion. Several of the parties who challenged the NAAQS filed conditional cross-petitions for certiorari on the issue of whether the CAA precludes the consideration of costs in establishing NAAQS. In May 2000, the Supreme Court granted EPA's petition and the petitioners' cross-petitions, and the parties have filed their briefs with the Court. The ongoing litigation continues to create uncertainty

with respect to EPA's ability to rely upon the 8-hour ozone standard as a basis for making findings under section 126 at this time.

In the January 2000 section 126 Rule, EPA explained that it believed it should not continue implementation efforts under section 126 with respect to the 8-hour standard that could be construed as inconsistent with the Court ruling in *American Trucking*. Therefore, in the January 2000 Rule, EPA voluntarily stayed the 8-hour affirmative technical determinations set forth in the May 1999 Rule. The EPA will address the 8-hour portion of the section 126 Rule through additional notice-and-comment rulemaking if and when EPA is able to implement the 8-hour standard.

2. How Did the Court Stay of the NO_x SIP Call Affect the Section 126 Rule?

The NO_x SIP Call required submission of the SIP revisions by September 30, 1999. State Petitioners challenging the NO_x SIP Call filed a motion requesting the Court to stay the submission schedule until April 27, 2000. In response, on May 25, 1999, the D.C. Circuit issued a stay of the SIP submission deadline pending further order of the Court. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (May 25, 1999 order granting stay in part).

Because the court had stayed the NO_x SIP call schedule, and there was no explicit and expeditious deadline for compliance with that rule, EPA believed there was no longer a basis for deferring making the section 126 findings based on a failure to meet the SIP call submission requirements. Therefore, in the January 2000 Rule, EPA deleted the automatic trigger mechanism for making findings and instead simply made final findings under the 1-hour standard based on the affirmative technical determinations in the May 1999 Rule. The 1-hour findings were made with respect to the section 126 petitions from Connecticut, Massachusetts, New York, and Pennsylvania. The findings affected large EGUs and large non-EGUs located in the District of Columbia and 12 States, including Michigan. EPA promulgated the Federal NO_x Budget Trading Program as the control remedy and issued NO_x allowance allocations to each source. The rule required sources affected by the 1-hour findings to reduce NO_x emissions by May 1, 2003.¹ (On August 24, 2001, the D.C.

Circuit temporarily suspended the section 126 Rule compliance date for EGUs while EPA resolves a remanded issue related to EGU growth factors. The EPA is currently developing its response to the remand. In a January 16, 2002 memorandum from John Seitz, Director of EPA's Office of Air Quality Planning and Standards, to Regional Air Division Directors entitled, "Deadlines for Electric Generating Units (EGUs) and Non-Electric Generating Units (non-EGUs) under the Section 126 Rule," EPA has indicated its intent to reset the compliance date for EGUs and non-EGUs to May 31, 2004, subject to EPA's response to the growth factor remand.)

C. March 3, 2000 Court Decision on the NO_x SIP Call

1. What Is the Relevance of the NO_x SIP Call Court Decision to the Section 126 Rule?

On March 3, 2000, the United States Court of Appeals for the District of Columbia Circuit issued its decision on the NO_x SIP call, ruling in favor of EPA on all major issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000).

However, the Court ruled against EPA on several points, one of which is relevant to today's proposal on the section 126 Rule. Specifically, the court vacated the inclusion of Georgia and Missouri in the NO_x SIP call in light of the Ozone Transport Assessment Group (OTAG) conclusions that emissions from coarse grid portions of States did not merit controls. The court remanded this issue concerning Georgia and Missouri to EPA for further consideration. The section 126 Rule is based on NO_x SIP call analyses and also affects sources located in the coarse grid. (See section II.C.2 below for an explanation of coarse versus fine grid areas of States.)

What Is the NO_x SIP Call Litigation Decision Regarding Coarse Grid Sources?

In the NO_x SIP call, Georgia and Missouri industry petitioners challenged EPA's decision to calculate NO_x budgets for these two States based

on NO_x emissions throughout the entirety of each State. The petitioners maintained that the record supports including only eastern Missouri and northern Georgia as contributing to downwind ozone problems.

The challenge from these petitioners generally stems from the OTAG recommendations. The OTAG recommended NO_x controls to reduce transport for areas within the "fine grid" of the air quality modeling domain, but recommended that areas within the "coarse grid" not be subject to additional controls, other than those required by the CAA.²

In its modeling, OTAG used grids drawn across most of the eastern half of the United States. The "fine grid" has grid cells of approximately 12 kilometers on each side (144 square kilometers). The "coarse grid" extends beyond the perimeter of the fine grid and has cells with 36 kilometer resolution. As shown in Figure F-10, Appendix F of part 52.34, the fine grid includes the area encompassed by a box with the following geographic coordinates: Southwest Corner: 92 degrees West longitude, 32 degrees North latitude; Northeast Corner: 69.5 degrees West longitude, 44 degrees North latitude (OTAG Final Report Chapter 2). The OTAG could not include the entire Eastern U.S. within the fine grid because of computer hardware constraints.

It is important to note that there were two key factors directly related to air quality that OTAG considered in determining the location of the fine grid-coarse grid line.³ (See OTAG Technical Supporting Document, Chapter 2, page 6; www.epa.gov/ttn/otag/finalrpt/.) Specifically, the fine grid-coarse grid line was drawn to: (1) Include within the fine grid as many of the 1-hour ozone nonattainment problem areas as possible and still stay within the computer and model run time constraints, (2) avoid dividing any individual major urban area between the fine grid and coarse grid, and (3) be located along an area of relatively low emissions density. As a result, the fine grid-coarse grid line did not track State boundaries, and Missouri and Georgia were among several States that were split between the fine and coarse grids.

² The OTAG recommendation on Utility NO_x Controls approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

³ In addition to these two factors, OTAG considered three other factors in establishing the geographic resolution, overall size, and the extent of the fine grid. These other factors dealt with the computer limitations and the resolution of available model inputs.

¹ The EPA notes that on June 22, 2000, the Court lifted the stay of the SIP submittal date for the NO_x SIP call and ordered that the SIP submissions be due 128 days from the June 22, 2000 date of the order. At the time of the May 25, 1999 stay of the SIP submittal date, States had 128 days left to submit their SIPs. Thus, the new SIP submittal date

became October 30, 2000. The EPA has established a two-phased process for submitting the NO_x SIPs; the October 30, 2000 date is for the phase I SIP. The EPA will be establishing the due date for the phase II NO_x SIP through notice-and-comment rulemaking. Therefore, the deadline for States to meet their full NO_x SIP call obligation has not yet been set. For further details, see the proposal on the NO_x SIP call that is being issued in the same general timeframe as today's proposal. Because EPA delinked the making of the section 126 findings from the NO_x SIP call SIP submittal date, the lifting of the stay of the SIP submittal date did not affect the section 126 action.

Eastern Missouri and northern Georgia were in the fine grid while western Missouri and southern Georgia were in the coarse grid.

The analysis OTAG conducted found that emissions controls examined by OTAG, when modeled in the entire coarse grid (i.e., all States and portions of States in the OTAG region that are in the coarse grid) had little impact on high 1-hour ozone levels in the downwind ozone problem areas of the fine grid.⁴

The Court vacated EPA's determination of significant contribution for all of Georgia and Missouri. *Michigan v. EPA*, 213 F.3d at 685. The Court did not seem to call into question the proposition that the fine grid portion of each State should be considered to make a significant contribution downwind. However, the Court emphasized that "EPA must first establish that there is a measurable contribution," *id.* at 684, from the coarse grid portion of the State before determining that the coarse grid portion of the State significantly contributes to ozone nonattainment downwind.

Based on OTAG's modeling and recommendations, the technical record for the EPA's final NO_x SIP Call rulemaking, and emissions data, EPA believes that emissions in the fine grid portions of Georgia and Missouri comprise a measurable portion of the entire State's significant contribution to downwind nonattainment. Specifically, OTAG's technical findings and recommendations state that areas located in the fine grid should receive additional controls because they contribute to ozone in other areas within the fine grid. In addition, EPA performed State-by-State modeling for Georgia and Missouri as part of the final NO_x SIP Call rulemaking. The results of

this modeling show that emissions in both Georgia and Missouri make a significant contribution to nonattainment in other States. The EPA's finding of significant contribution for Missouri and Georgia was not disturbed by the Court, and the Georgia and Missouri industry petitioners challenging the rule did not challenge this part of the decision. *Id.* at 681.

3. What Is EPA's Response to the NO_x SIP Call Court Decision?

The EPA is preparing a rulemaking on the NO_x SIP call to address issues remanded by the court in the March 3, 2000 decision. Among other issues, the proposal addresses the geographic applicability of the NO_x SIP call for States located partially in the coarse grid. With regard to Georgia and Missouri, which the Court remanded to EPA for further consideration, EPA is proposing that the SIP call only cover the fine grid portions at this time. The EPA also explains that although this aspect of the court decision did not directly address the States of Michigan and Alabama, the reasoning of the court regarding control requirements for Georgia and Missouri calls into question the inclusion of the coarse grid portions of Michigan and Alabama in the NO_x SIP call. Therefore, EPA is proposing to only cover the fine grid portions of Michigan and Alabama as well. The EPA intends to address the emissions from the coarse grid portions of these States at such time as it evaluates transport from 15 other States in the OTAG region that were not included in the final NO_x SIP call.

II. Section 126 Proposal

The section 126 Rule is based on technical analyses and information from the NO_x SIP call and covers certain sources located in the coarse grid of the OTAG modeling domain. Thus, the court ruling in the NO_x SIP call litigation regarding whether coarse grid portions of States should be included in

the NO_x SIP call is relevant to the section 126 action as well.

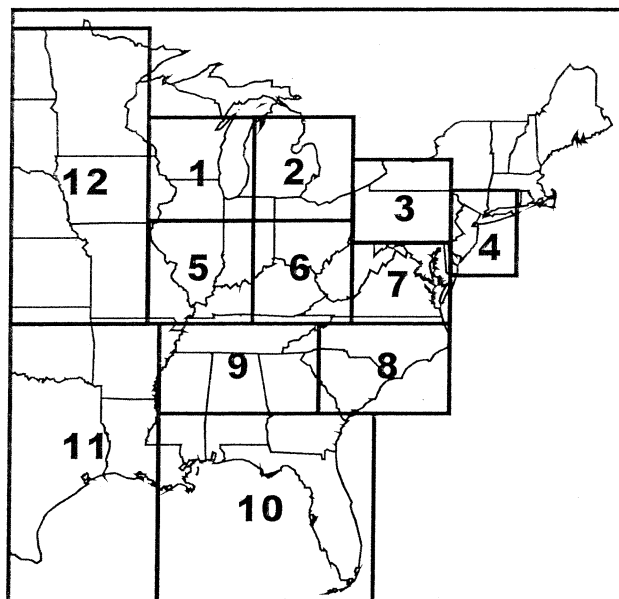
In light of the court ruling, EPA is proposing to withdraw its section 126 findings and to deny the Connecticut and New York petitions under the 1-hour ozone standard with respect to sources that are or will be located in the coarse grid portion of Michigan. There are no other coarse grid areas covered by the section 126 Rule under the 1-hour standard. The EPA emphasizes that it is not reopening any other part of the section 126 final rule for public comment and reconsideration.

A. What Is the Geographic Scope of the 1-Hour Findings for Michigan Sources?

The section 126 petitions identified sources in different geographic areas. Both the Connecticut and New York petitions identified sources in specific OTAG Subregions. These Subregions were delineated by OTAG for use in some of the early air quality modeling analyses to determine the spatial scale of transport. The Subregional divisions were not used for the purpose of evaluating various control strategies. (See 62 FR 60318; November 7, 1997.) The Connecticut petition targeted sources located in OTAG Subregions 2, 6, and 7 and the portion of the Ozone Transport Region extending west and south of Connecticut. The New York petition targeted sources located in OTAG Subregions 2, 6, and 7 and the portion of the Ozone Transport Region extending west and south of New York. Part of Michigan is included in OTAG Subregion 2 (see Figure 1 below). In the January 2000 Rule, EPA made findings that large EGUs and large non-EGUs located in that portion of Michigan are significantly contributing to both Connecticut and New York under the 1-hour ozone standard. (Other portions of the Michigan fine and coarse grids were not covered by section 126 findings because the Connecticut and New York petitions did not target those areas.)

⁴ OTAG recommendation on Major Modeling/Air Quality Conclusions approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

Figure 1. Location of Ozone Transport Assessment Group (OTAG) Subregions



B. What Is Today's Proposal on the Michigan Coarse Grid Sources Under the 1-Hour Standard?

The Subregion 2 portion of Michigan, for which EPA made 1-hour section 126 findings, covers the area south of 45 degrees latitude and east of 86 degrees longitude. The fine-coarse grid line cuts through Michigan at 44 degrees latitude. Thus, a strip at the northern end of Subregion 2 is located in the coarse grid. In today's action, EPA is proposing to withdraw the section 126 findings made in response to the petitions from Connecticut and New York under the 1-hour standard for sources that are or will be located in the coarse grid portion of Michigan. The EPA has not identified any existing section 126 sources located in that area of the coarse grid. As discussed above in section I.C.2, in the *Michigan v. EPA* decision on the NO_x SIP call, the court indicated that "EPA must first establish that there is a measurable contribution" from the coarse grid portion of the State before holding the coarse grid portion of the State partly responsible for the significant contribution of downwind ozone nonattainment in another State. *Michigan v. EPA*, 213 F.3d at 684. Elsewhere, the Court seemed to identify the standard as "material contribution []". *Id.* In response to the court opinion, EPA is proposing to include only the fine grid portion of Michigan in the NO_x SIP call at this time. The EPA is applying the same reasoning to the

Section 126 Rule. The EPA does not have analyses specific to the coarse grid to demonstrate that emissions from that area measurably or materially contribute to nonattainment in the petitioning States. Therefore, EPA is proposing to deny the New York and Connecticut petitions with respect to the Michigan coarse grid sources. Under today's proposal, any existing or new sources located in that affected segment of the coarse grid (north of 44 degrees latitude, south of 45.0 degrees latitude, and east of 86.0 degrees longitude) would no longer be subject to the control requirements of the section 126 Rule.⁵

⁵ The EPA is taking a different approach to interpreting the fine-coarse grid split for purposes of a new NO_x SIP call proposal. Under the NO_x SIP call, with respect to Michigan, EPA is proposing findings only for the fine grid. Thus, the coarse grid portion, which was covered under the October 27, 1998 NO_x SIP call, would no longer be affected. The NO_x SIP call establishes State emissions budgets rather than regulating individual sources. Because of the uncertainties with accurately dividing emissions between the fine and coarse grid portions of individual counties, EPA is proposing that the NO_x SIP call emissions budgets be based on all counties that are wholly contained within the fine grid. That is, counties that are in the coarse grid or that straddle the fine-coarse grid line would be excluded. Because the section 126 action regulates specific stationary sources, the issue of how to apportion a full NO_x inventory on a partial-county basis does not arise. Therefore, the section 126 proposal follows the fine-coarse grid line exactly. The EPA notes that the Section 126 Rule has already covered partial counties for Michigan in its January 2000 Rule. In that rule, only sources east of 86 degrees longitude and south of 45 degrees latitude were affected.

C. Is EPA Proposing Action Under the 8-Hour Standard on the Affirmative Technical Determinations That Affect Coarse Grid Sources?

As discussed above in section I.B.1, as a result of the court decision on the 8-hour ozone standard, EPA voluntarily stayed the 8-hour affirmative technical determinations in the May 1999 Rule (65 FR 2674, January 18, 2000). Thus, EPA has not moved forward to make any section 126 findings or establish any control requirements based on the 8-hour portion of the May 1999 Rule. However, the affirmative technical determinations are final EPA actions specifying which portions of the 8-hour petitions are approvable and could provide a basis for future required control measures. The 8-hour affirmative technical determinations affect sources located in 19 States and the District of Columbia, including the coarse grid portions of Alabama, Michigan, Missouri, and New York. Because EPA has indefinitely stayed the section 126 Rule with respect to the 8-hour standard, EPA is not at this time proposing to revise the 8-hour affirmative technical determinations for coarse grid sources. The EPA intends to address these sources through notice-and-comment rulemaking if and when EPA is able to implement the 8-hour standard.

D. Does Today's Proposal Affect the Section 126 Requirements for Michigan Fine Grid Sources or Sources Located in Other States?

Today's proposal does not affect the NO_x allowance allocations for Michigan sources located in the fine grid that were established in the January 2000 Rule. In addition, today's proposal does not affect the section 126 trading budget for Michigan or the compliance supplement pool. The EPA has not identified any existing large EGUs and large non-EGUs in the coarse grid portion of Michigan affected by today's proposal. Therefore, the NO_x allowance calculations in the January 2000 Rule were already based only on fine grid emissions. This proposal does not affect any of the section 126 Rule requirements for sources located in other States. Therefore, today's proposal does not affect the ability of any sources located in the fine grid to comply with the section 126 requirements by the compliance deadline.

III. What Is the Revision to the Definition of "Applicable Requirement" for Title V Operating Permit Programs?

The EPA is proposing to revise the definitions of the "applicable requirement" in 40 CFR 70.2 and 71.2 by providing expressly that any standard or other requirement under section 126 of the CAA is an applicable requirement and must be included in operating permits issued under title V of the CAA. Section 504(a) of the CAA explicitly requires that each permit include "enforceable emission limitations and standards, a schedule of compliance, * * * and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan."⁴² U.S.C. 7661c(a). The current § 70.2 and § 71.2 definitions of "applicable requirement" do not include requirements that are imposed under section 126, even though section 126 authorizes the Administrator to adopt standards and requirements under certain circumstances as discussed above. Our proposed revision remedies this omission and clarifies the treatment, in title V operating permits, of section 126 requirements promulgated by the Administrator.

Emission limitations, compliance schedules, and other regulatory requirements adopted under section 126 are, on their face, requirements of the CAA and therefore should be included in the definitions of "applicable requirement" in § 70.2 and § 71.2.

Indeed, in the preamble of the January 18, 2000 final rule establishing the NO_x Budget Trading Program under section 126, EPA stated that the requirements of the final rule "are applicable requirements under § 70.2 and must be reflected in the title V operating permit" of sources that are subject to the program and required to have such a permit (65 FR 2688). However, this statement was based on an erroneous reading that paragraph (1) of the definition of "applicable requirement" in § 70.2 (which is identical to the definition of the same term in § 71.2) is written broadly enough to include section 126 requirements as an "applicable requirement."⁶

Despite the erroneous discussion in the preamble of the January 18, 2000 section 126 Rule, that rule expressly requires that title V operating permits include the requirements of the NO_x Budget Trading Program. Specifically, the rule states that, for each source required to have a "federally enforceable permit" (e.g., a title V operating permit), such permit must include the requirements of the NO_x Budget Trading Program for units subject to that program. *See* 40 CFR 97.20(a).

In order to clarify that section 126 requirements are indeed an applicable requirement under the CAA and must be included in title V operating permits, EPA is proposing to revise the definition of "applicable requirement" in § 70.2 and § 71.2 to expressly include standards and other requirements promulgated under section 126. The requirements of the NO_x Budget Trading Program promulgated on January 18, 2000 are an example of requirements that would be covered this proposed revision to § 70.2 and § 71.2.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the

⁶ The conclusion that the requirements of the NO_x Budget Trading Program under section 126 are an "applicable requirement" under § 70.2 was based on the assumption that, since section 126 is part of title I, these section 126 requirements are "provided for in the applicable implementation plan approved or promulgated by EPA through a rulemaking under title I." 40 CFR 70.2 (definition of "applicable requirement", paragraph (1)). In fact, however, section 126 requirements promulgated by EPA are not part of an implementation plan under section 110. *See* CAA section 302(q), 42 U.S.C. 7603(q) (definition of "applicable implementation plan").

requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Under Executive Order 12866, this proposed action is not a "significant regulatory action" and is therefore not subject to review by OMB. In the January 2000 Rule titled "Findings of Significant Contribution and Rulemaking on section 126 Petitions for Purposes of Reducing Interstate Ozone Transport," (65 FR 2674), EPA partially approved four section 126 petitions under the 1-hour ozone standard. Today's action proposes to withdraw its section 126 findings and deny petitions under the 1-hour ozone standard with respect to sources located in a portion of Michigan.

This proposed action does not create any additional impacts beyond what was promulgated in the January 2000 Rule. This proposed rule also does not raise novel legal or policy issues. Therefore, EPA believes that this action is not a "significant regulatory action."

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with "Federal mandates" 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 in any 1 year. A "Federal mandate" is defined to include a "Federal intergovernmental mandate" and a "Federal private sector mandate" (2 U.S.C. 658(6)). A "Federal intergovernmental mandate," in turn, is defined to include a regulation that

“would impose an enforceable duty upon State, local, or tribal governments,” (2 U.S.C. 658(5)(A)(i)), except for, among other things, a duty that is “a condition of Federal assistance” (2 U.S.C. 658(5)(A)(I)). A “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector,” with certain exceptions (2 U.S.C. 658(7)(A)).

The EPA has determined that this proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more for either State, local, or tribal governments in the aggregate, or for the private sector. This proposed Federal action does not propose any new requirements, as discussed above. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, would result from this action.

C. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today’s

proposed action imposes no additional burdens beyond those imposed by the January 2000 Rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today’s action does not significantly or uniquely affect the communities of Indian tribal governments. As discussed above, today’s proposed action imposes no new requirements that would impose compliance burdens beyond those that would already apply under the January 2000 rule. Accordingly, the requirements of Executive Order 13175 do not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Today’s proposal, if promulgated, would not create new requirements for small entities or other sources. Instead, this action is proposing to withdraw the section 126 requirements for sources that are or would be located in a specified portion of Michigan. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because this action is not “economically significant” as defined under Executive Order 12866 and the Agency does not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Transfer and Advancement Act of 1995 (“NTTAA”, Pub. L. 104–113 section 12(d) 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The National Technology Transfer and Advancement Act of 1997 does not apply because today's action does not propose any new technical standards. This action is proposing to amend the January 2000 Rule by reducing the portion of Michigan that is covered by the rule.

H. Paperwork Reduction Act

Today's action does not propose any new information collection request requirements. Therefore, an information collection request document is not required.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Today's action does not propose any new regulatory requirements.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Emissions trading,

Intergovernmental relations, Nitrogen oxides, Ozone, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 71

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: February 12, 2002.

Christine Todd Whitman,
Administrator.

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

2. Section 52.34 is amended by revising paragraphs (c)(2)(vi) and (g)(2)(vi) to read as follows:

§ 52.34 Action on petitions submitted under section 126 relating to emissions of nitrogen oxides.

* * * * *

(c) * * *

(2) * * *

(vi) Portion of Michigan located south of 44 degrees latitude in OTAG Subregion 2, as shown in appendix F, Figure F–2, of this part.

* * * * *

(g) * * *

(2) * * *

(vi) Portion of Michigan located south of 44 degrees latitude in OTAG Subregion 2, as shown in appendix F, Figure F–6, of this part.

* * * * *

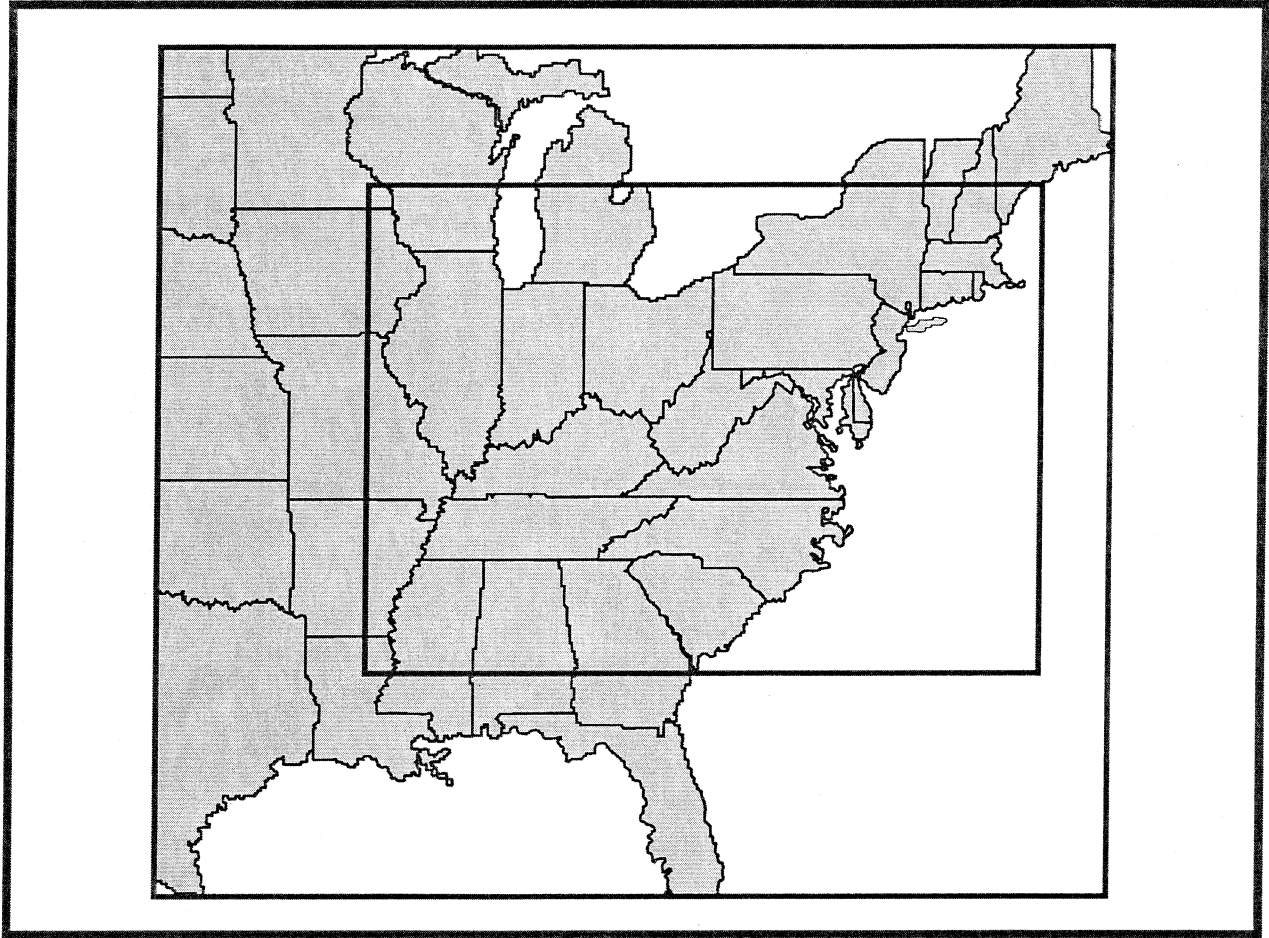
Appendix F—[Amended]

3. Appendix F is amended by adding a new figure F–10 in numerical order to read as follows:

Appendix F to Part 52—Clean Air Act Section 126 Petitions From Eight Northeastern States: Named Source Categories and Geographic Coverage

* * * * *

Figure F-10. Ozone Transport Assessment Group Modeling Domain



PART 70—STATE OPERATING PERMIT PROGRAMS

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

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

5. Section 70.2 is amended by redesignating paragraphs (7) through (12) of the definition of “Applicable requirement” as paragraphs (8) through (13) and adding a new paragraph (7) to read as follows:

§ 70.2 Definitions.
* * * * *

Applicable requirement * * *
(7) Any standard or other requirement under section 126(a)(1) and (c) of the Act;
* * * * *

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

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

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

7. Section 71.2 is amended by redesignating paragraphs (7) through (12) of the definition of “applicable

requirement” as paragraphs (8) through (13) and adding a new paragraph (7) to read as follows:

§ 71.2 Definitions.
* * * * *

Applicable requirement * * *
(7) Any standard or other requirement under section 126(a)(1) and (c) of the Act;
* * * * *



Federal Register

**Friday,
February 22, 2002**

Part III

Environmental Protection Agency

**40 CFR Parts 52, 70, and 71
Rulemaking on Section 126 Petitions
From New York and Connecticut
Regarding Sources in Michigan; Revision
of Definition of Applicable Requirement
for Title V Operating Permit Programs;
Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52, 70, and 71**

[FRL-7147-5]

RIN 2060-AJ36

Rulemaking on Section 126 Petitions From New York and Connecticut Regarding Sources in Michigan; Revision of Definition of Applicable Requirement for Title V Operating Permit Programs**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The EPA is proposing to revise one element of a final rule published on January 18, 2000, regarding petitions filed by four Northeastern States under section 126 of the Clean Air Act (CAA). The petitions seek to mitigate interstate transport of nitrogen oxides (NO_x), one of the main precursors of ground-level ozone pollution. The final rule partially approved the four petitions under the 1-hour ozone national ambient air quality standard, thereby requiring certain types of sources located in 12 States and the District of Columbia to reduce their NO_x emissions.

Subsequently, on March 3, 2000, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision on a related EPA regulatory action, the NO_x State implementation plan call (NO_x SIP call), that potentially affects the section 126 Rule. Although the court decision did not directly address the State of Michigan, the reasoning of the court regarding the significance of NO_x emissions from sources in two other States calls into question the inclusion of a portion of Michigan in the area covered by the NO_x SIP call. The section 126 Rule is based on many of the same analyses and information used for the NO_x SIP call and covers part of Michigan. Thus, in light of the court ruling, EPA is proposing to withdraw its section 126 findings and to deny the petitions under the 1-hour ozone standard with respect to sources located in the portion of Michigan that is at issue in the NO_x SIP call, known as the "coarse grid" part of that State. Although EPA has not identified any existing section 126 sources located in the coarse grid, this proposal would affect new sources locating in the coarse grid.

The EPA is also proposing to revise the definition of the "applicable requirement" for title V operating permit programs by providing expressly

that any standard or other requirement under section 126 is an applicable requirement and must be included in operating permits issued under title V of the CAA.

DATES: The comment period on this proposal ends on April 15, 2002. Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). A public hearing will be held on March 15, 2002 in Arlington, VA, if one is requested by March 7, 2002. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and hearing.

ADDRESSES: Comments may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-97-43, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, telephone (202) 260-7548. The EPA encourages electronic submission of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information should be submitted through e-mail.

Documents relevant to this action are available for inspection at the Docket Office, located at 401 M Street SW., Room M-1500, Washington, DC 20460, between 7:30 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

The public hearing, if requested, will be held at Crystal Mall 2 (Room 1110 "the fish bowl"), Crystal City, 1921 Jefferson Davis Hwy, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action should be addressed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, 4930 Old Page Road, Research Triangle Park, NC, 27711, telephone (919) 541-3347, e-mail at oldham.carla@epa.gov.

SUPPLEMENTARY INFORMATION:**Public Hearing**

The EPA will conduct a public hearing on this proposal on March 15, 2002 beginning at 9:00 a.m., if requested by March 7, 2002. The EPA will not hold a hearing if one is not requested. Please check EPA's webpage at <http://www.epa.gov/ttn/rto/whatsnew.html> on March 11, 2002 for the announcement of whether the hearing will be held. If there is a public hearing, it will be held at Crystal Mall 2 (Room 1110 "the fish bowl"), Crystal City, 1921 Jefferson

Davis Hwy, Arlington, VA 22202. The Metro stop is Crystal City. If you want to request a hearing and present oral testimony at the hearing, you should notify, on or before March 7, 2002, JoAnn Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, 4930 Old Page Road, Research Triangle Park, NC 27711, telephone (919) 541-1815, e-mail allman.joann@epa.gov. Oral testimony will be limited to 5 minutes each. The hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket No. A-97-43 at the address given above for submittal of comments. The hearing schedule, including the list of speakers, will be posted on EPA's webpage at <http://www.epa.gov/ttn/rto/whatsnew.html>. A verbatim transcript of the hearing, if held, and written statements will be made available for copying during normal working hours at the Office of Air and Radiation Docket and Information Center address given above for inspection of documents.

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under docket number A-97-43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information, is available for inspection from 7:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemaking actions and associated documents are located at <http://www.epa.gov/ttn/rto/126>.

The EPA has issued a separate rule on NO_x transport entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone." The rulemaking docket for that rule (Docket No. A-96-56), hereafter referred to as the NO_x SIP call, contains information and analyses that EPA has relied upon in the section 126 rulemaking, and hence documents in that docket are part of the rulemaking record for this rule. Documents related to the NO_x SIP call

rulemaking are available for inspection in docket number A-96-56 at the address and times given above.

Submitting Electronic Comments

Electronic comments are encouraged and can be sent directly to EPA at *A-and-R-Docket@epa.gov*. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket number A-97-43. Electronic comments may be filed online at many Federal Depository Libraries.

Outline

I. Background

- A. What Does the May 1999 Section 126 Rule Do?
- B. How Did the January 2000 Rule Revise the May 1999 Rule?
 1. How Did the Court Ruling on the 8-Hour Standard Affect the May 1999 Section 126 Rule?
 2. How Did the Court Stay of the NO_x SIP Call Affect the Section 126 Rule?
- C. March 3, 2000 Court Decision on the NO_x SIP Call
 1. What is the Relevance of the NO_x SIP Call Court Decision to the Section 126 Rule?
 2. What is the NO_x SIP Call Litigation Regarding Coarse Grid Sources?
 3. What is EPA's Response to the NO_x SIP Call Court Decision?

II. Section 126 Proposal

- A. What is the Geographic Scope of the 1-Hour Findings for Michigan Sources?
- B. What is Today's Proposal on the Michigan Coarse Grid Sources Under the 1-Hour Standard?
- C. Is EPA Proposing Action Under the 8-Hour Standard on the Affirmative Technical Determinations that Affect Coarse Grid Sources?
- D. Does Today's Proposal Affect the Section 126 Requirements for Michigan Fine Grid Sources or Sources Located in Other States?

III. What is the Revision to the Definition of "Applicable Requirement" for Title V Operating Permit Programs?

IV. Administrative Requirements

- A. Executive Order 12866: Regulatory Planning and Review
- B. Unfunded Mandates Reform Act
- C. Executive Order 13132: Federalism
- D. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- E. Regulatory Flexibility Act
- F. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- G. National Technology Transfer and Advancement Act
- H. Paperwork Reduction Act
- I. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

I. Background

In final rules published on May 25, 1999 (64 FR 28250) (May 1999 Rule) and January 18, 2000 (65 FR 2674) (January 2000 Rule), EPA took action on petitions filed separately by eight Northeastern States under section 126 of the CAA. Each petition requested that EPA make a finding that certain stationary sources located in other specified States are emitting NO_x in amounts that significantly contribute to ozone nonattainment and maintenance problems in the petitioning State. All of the States directed their petitions at the 1-hour ozone standard. Five of the States also directed their petitions at the 8-hour ozone standard. The petitions targeted electric utilities, industrial boilers and turbines, and certain other stationary sources of NO_x. The States that submitted petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Pennsylvania, and Vermont.

Section 126 of the Clean Air Act (CAA) authorizes a downwind State to petition EPA for a finding that any new (or modified) or existing major stationary source or group of stationary sources upwind of the State emits or would emit in violation of the prohibition of section 110(a)(2)(D)(i) because their emissions contribute significantly to nonattainment, or interfere with maintenance, of a national ambient air quality standard in the State. Sections 110(a)(2)(D)(i), 126(b)-(c). If EPA makes the requested finding, the sources must shut down within 3 months from the finding unless EPA directly regulates the sources by establishing emissions limitations and a compliance schedule, extending no later than 3 years from the date of the finding, to eliminate the prohibited interstate transport of pollutants as expeditiously as possible. See sections 110(a)(2)(D)(i) and 126(c).

A. What Does the May 1999 Section 126 Rule Do?

In the May 1999 Rule, EPA determined which petitions were approvable based on their technical merit. The EPA made affirmative technical determinations that NO_x emissions from existing and new large electric generating units (EGUs) and large industrial boilers and turbines (non-EGUs) located in certain States identified in the petitions are significantly contributing to nonattainment in, or interfering with maintenance by, one or more of the petitioning States with respect to the 1-hour and/or 8-hour ozone standard. Separate determinations were made under the 1-hour and 8-hour standards.

The EPA deferred making the section 126 findings based on the affirmative technical determinations pending certain actions by EPA and the States with respect to the NO_x SIP call. Instead, according to the rule, the section 126 findings and associated control requirements would be automatically triggered at specific future dates if States and EPA failed to stay on track to meet the SIP call obligations. In the May 1999 Rule, EPA also denied the portions of the petitions that did not have technical merit.

In evaluating the petitions, EPA relied on the analyses and information from the NO_x SIP call.

B. How Did the January 2000 Rule Revise the May 1999 Rule?

Shortly after EPA issued the May 1999 Rule (which was signed by the Administrator on April 30, 1999), two separate rulings by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) affected the Rule. In light of the court rulings, on January 18, 2000 EPA published a final rule (January 2000 Rule) which modified two aspects of the May 1999 Rule.

1. How Did the Court Ruling on the 8-Hour Standard Affect the May 1999 Section 126 Rule?

In one of the court rulings, issued on May 14, 1999, the D.C. Circuit questioned the constitutionality of the CAA authority to review and revise the national ambient air quality standards (NAAQS), as applied by EPA in its promulgation of the 8-hour ozone standard (as well as the particulate matter NAAQS). See *American Trucking Ass'n v. EPA*, 175 F.3d 1027 (D.C. Cir.), modified, 195 F.3d 4 (D.C. Cir. 1999), cert. granted, 68 U.S.C.W. 3724 (May 22, 2000), 68 U.S.C.W. 3739 (May 30, 2000). The court's ruling curtailed EPA's ability to require States to comply with a more stringent ozone NAAQS. On October 29, 1999, the D.C. Circuit granted in part and denied in part EPA's rehearing request.

On January 27, 2000, the Administration filed a petition of certiorari with the Supreme Court seeking review of this opinion. Several of the parties who challenged the NAAQS filed conditional cross-petitions for certiorari on the issue of whether the CAA precludes the consideration of costs in establishing NAAQS. In May 2000, the Supreme Court granted EPA's petition and the petitioners' cross-petitions, and the parties have filed their briefs with the Court. The ongoing litigation continues to create uncertainty

with respect to EPA's ability to rely upon the 8-hour ozone standard as a basis for making findings under section 126 at this time.

In the January 2000 section 126 Rule, EPA explained that it believed it should not continue implementation efforts under section 126 with respect to the 8-hour standard that could be construed as inconsistent with the Court ruling in *American Trucking*. Therefore, in the January 2000 Rule, EPA voluntarily stayed the 8-hour affirmative technical determinations set forth in the May 1999 Rule. The EPA will address the 8-hour portion of the section 126 Rule through additional notice-and-comment rulemaking if and when EPA is able to implement the 8-hour standard.

2. How Did the Court Stay of the NO_x SIP Call Affect the Section 126 Rule?

The NO_x SIP Call required submission of the SIP revisions by September 30, 1999. State Petitioners challenging the NO_x SIP Call filed a motion requesting the Court to stay the submission schedule until April 27, 2000. In response, on May 25, 1999, the D.C. Circuit issued a stay of the SIP submission deadline pending further order of the Court. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (May 25, 1999 order granting stay in part).

Because the court had stayed the NO_x SIP call schedule, and there was no explicit and expeditious deadline for compliance with that rule, EPA believed there was no longer a basis for deferring making the section 126 findings based on a failure to meet the SIP call submission requirements. Therefore, in the January 2000 Rule, EPA deleted the automatic trigger mechanism for making findings and instead simply made final findings under the 1-hour standard based on the affirmative technical determinations in the May 1999 Rule. The 1-hour findings were made with respect to the section 126 petitions from Connecticut, Massachusetts, New York, and Pennsylvania. The findings affected large EGUs and large non-EGUs located in the District of Columbia and 12 States, including Michigan. EPA promulgated the Federal NO_x Budget Trading Program as the control remedy and issued NO_x allowance allocations to each source. The rule required sources affected by the 1-hour findings to reduce NO_x emissions by May 1, 2003.¹ (On August 24, 2001, the D.C.

Circuit temporarily suspended the section 126 Rule compliance date for EGUs while EPA resolves a remanded issue related to EGU growth factors. The EPA is currently developing its response to the remand. In a January 16, 2002 memorandum from John Seitz, Director of EPA's Office of Air Quality Planning and Standards, to Regional Air Division Directors entitled, "Deadlines for Electric Generating Units (EGUs) and Non-Electric Generating Units (non-EGUs) under the Section 126 Rule," EPA has indicated its intent to reset the compliance date for EGUs and non-EGUs to May 31, 2004, subject to EPA's response to the growth factor remand.)

C. March 3, 2000 Court Decision on the NO_x SIP Call

1. What Is the Relevance of the NO_x SIP Call Court Decision to the Section 126 Rule?

On March 3, 2000, the United States Court of Appeals for the District of Columbia Circuit issued its decision on the NO_x SIP call, ruling in favor of EPA on all major issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000).

However, the Court ruled against EPA on several points, one of which is relevant to today's proposal on the section 126 Rule. Specifically, the court vacated the inclusion of Georgia and Missouri in the NO_x SIP call in light of the Ozone Transport Assessment Group (OTAG) conclusions that emissions from coarse grid portions of States did not merit controls. The court remanded this issue concerning Georgia and Missouri to EPA for further consideration. The section 126 Rule is based on NO_x SIP call analyses and also affects sources located in the coarse grid. (See section II.C.2 below for an explanation of coarse versus fine grid areas of States.)

What Is the NO_x SIP Call Litigation Decision Regarding Coarse Grid Sources?

In the NO_x SIP call, Georgia and Missouri industry petitioners challenged EPA's decision to calculate NO_x budgets for these two States based

on NO_x emissions throughout the entirety of each State. The petitioners maintained that the record supports including only eastern Missouri and northern Georgia as contributing to downwind ozone problems.

The challenge from these petitioners generally stems from the OTAG recommendations. The OTAG recommended NO_x controls to reduce transport for areas within the "fine grid" of the air quality modeling domain, but recommended that areas within the "coarse grid" not be subject to additional controls, other than those required by the CAA.²

In its modeling, OTAG used grids drawn across most of the eastern half of the United States. The "fine grid" has grid cells of approximately 12 kilometers on each side (144 square kilometers). The "coarse grid" extends beyond the perimeter of the fine grid and has cells with 36 kilometer resolution. As shown in Figure F-10, Appendix F of part 52.34, the fine grid includes the area encompassed by a box with the following geographic coordinates: Southwest Corner: 92 degrees West longitude, 32 degrees North latitude; Northeast Corner: 69.5 degrees West longitude, 44 degrees North latitude (OTAG Final Report Chapter 2). The OTAG could not include the entire Eastern U.S. within the fine grid because of computer hardware constraints.

It is important to note that there were two key factors directly related to air quality that OTAG considered in determining the location of the fine grid-coarse grid line.³ (See OTAG Technical Supporting Document, Chapter 2, page 6; www.epa.gov/ttn/otag/finalrpt/.) Specifically, the fine grid-coarse grid line was drawn to: (1) Include within the fine grid as many of the 1-hour ozone nonattainment problem areas as possible and still stay within the computer and model run time constraints, (2) avoid dividing any individual major urban area between the fine grid and coarse grid, and (3) be located along an area of relatively low emissions density. As a result, the fine grid-coarse grid line did not track State boundaries, and Missouri and Georgia were among several States that were split between the fine and coarse grids.

² The OTAG recommendation on Utility NO_x Controls approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

³ In addition to these two factors, OTAG considered three other factors in establishing the geographic resolution, overall size, and the extent of the fine grid. These other factors dealt with the computer limitations and the resolution of available model inputs.

¹ The EPA notes that on June 22, 2000, the Court lifted the stay of the SIP submittal date for the NO_x SIP call and ordered that the SIP submissions be due 128 days from the June 22, 2000 date of the order. At the time of the May 25, 1999 stay of the SIP submittal date, States had 128 days left to submit their SIPs. Thus, the new SIP submittal date

became October 30, 2000. The EPA has established a two-phased process for submitting the NO_x SIPs; the October 30, 2000 date is for the phase I SIP. The EPA will be establishing the due date for the phase II NO_x SIP through notice-and-comment rulemaking. Therefore, the deadline for States to meet their full NO_x SIP call obligation has not yet been set. For further details, see the proposal on the NO_x SIP call that is being issued in the same general timeframe as today's proposal. Because EPA delinked the making of the section 126 findings from the NO_x SIP call SIP submittal date, the lifting of the stay of the SIP submittal date did not affect the section 126 action.

Eastern Missouri and northern Georgia were in the fine grid while western Missouri and southern Georgia were in the coarse grid.

The analysis OTAG conducted found that emissions controls examined by OTAG, when modeled in the entire coarse grid (i.e., all States and portions of States in the OTAG region that are in the coarse grid) had little impact on high 1-hour ozone levels in the downwind ozone problem areas of the fine grid.⁴

The Court vacated EPA's determination of significant contribution for all of Georgia and Missouri. *Michigan v. EPA*, 213 F.3d at 685. The Court did not seem to call into question the proposition that the fine grid portion of each State should be considered to make a significant contribution downwind. However, the Court emphasized that "EPA must first establish that there is a measurable contribution," *id.* at 684, from the coarse grid portion of the State before determining that the coarse grid portion of the State significantly contributes to ozone nonattainment downwind.

Based on OTAG's modeling and recommendations, the technical record for the EPA's final NO_x SIP Call rulemaking, and emissions data, EPA believes that emissions in the fine grid portions of Georgia and Missouri comprise a measurable portion of the entire State's significant contribution to downwind nonattainment. Specifically, OTAG's technical findings and recommendations state that areas located in the fine grid should receive additional controls because they contribute to ozone in other areas within the fine grid. In addition, EPA performed State-by-State modeling for Georgia and Missouri as part of the final NO_x SIP Call rulemaking. The results of

this modeling show that emissions in both Georgia and Missouri make a significant contribution to nonattainment in other States. The EPA's finding of significant contribution for Missouri and Georgia was not disturbed by the Court, and the Georgia and Missouri industry petitioners challenging the rule did not challenge this part of the decision. *Id.* at 681.

3. What Is EPA's Response to the NO_x SIP Call Court Decision?

The EPA is preparing a rulemaking on the NO_x SIP call to address issues remanded by the court in the March 3, 2000 decision. Among other issues, the proposal addresses the geographic applicability of the NO_x SIP call for States located partially in the coarse grid. With regard to Georgia and Missouri, which the Court remanded to EPA for further consideration, EPA is proposing that the SIP call only cover the fine grid portions at this time. The EPA also explains that although this aspect of the court decision did not directly address the States of Michigan and Alabama, the reasoning of the court regarding control requirements for Georgia and Missouri calls into question the inclusion of the coarse grid portions of Michigan and Alabama in the NO_x SIP call. Therefore, EPA is proposing to only cover the fine grid portions of Michigan and Alabama as well. The EPA intends to address the emissions from the coarse grid portions of these States at such time as it evaluates transport from 15 other States in the OTAG region that were not included in the final NO_x SIP call.

II. Section 126 Proposal

The section 126 Rule is based on technical analyses and information from the NO_x SIP call and covers certain sources located in the coarse grid of the OTAG modeling domain. Thus, the court ruling in the NO_x SIP call litigation regarding whether coarse grid portions of States should be included in

the NO_x SIP call is relevant to the section 126 action as well.

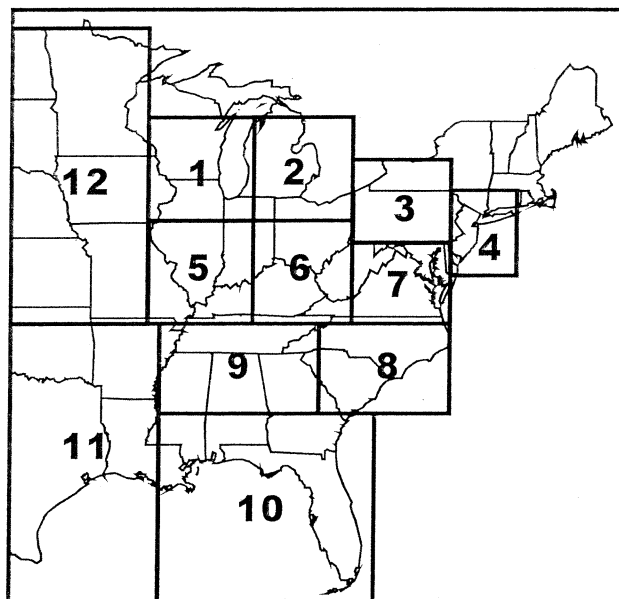
In light of the court ruling, EPA is proposing to withdraw its section 126 findings and to deny the Connecticut and New York petitions under the 1-hour ozone standard with respect to sources that are or will be located in the coarse grid portion of Michigan. There are no other coarse grid areas covered by the section 126 Rule under the 1-hour standard. The EPA emphasizes that it is not reopening any other part of the section 126 final rule for public comment and reconsideration.

A. What Is the Geographic Scope of the 1-Hour Findings for Michigan Sources?

The section 126 petitions identified sources in different geographic areas. Both the Connecticut and New York petitions identified sources in specific OTAG Subregions. These Subregions were delineated by OTAG for use in some of the early air quality modeling analyses to determine the spatial scale of transport. The Subregional divisions were not used for the purpose of evaluating various control strategies. (See 62 FR 60318; November 7, 1997.) The Connecticut petition targeted sources located in OTAG Subregions 2, 6, and 7 and the portion of the Ozone Transport Region extending west and south of Connecticut. The New York petition targeted sources located in OTAG Subregions 2, 6, and 7 and the portion of the Ozone Transport Region extending west and south of New York. Part of Michigan is included in OTAG Subregion 2 (see Figure 1 below). In the January 2000 Rule, EPA made findings that large EGUs and large non-EGUs located in that portion of Michigan are significantly contributing to both Connecticut and New York under the 1-hour ozone standard. (Other portions of the Michigan fine and coarse grids were not covered by section 126 findings because the Connecticut and New York petitions did not target those areas.)

⁴ OTAG recommendation on Major Modeling/Air Quality Conclusions approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

Figure 1. Location of Ozone Transport Assessment Group (OTAG) Subregions



B. What Is Today's Proposal on the Michigan Coarse Grid Sources Under the 1-Hour Standard?

The Subregion 2 portion of Michigan, for which EPA made 1-hour section 126 findings, covers the area south of 45 degrees latitude and east of 86 degrees longitude. The fine-coarse grid line cuts through Michigan at 44 degrees latitude. Thus, a strip at the northern end of Subregion 2 is located in the coarse grid. In today's action, EPA is proposing to withdraw the section 126 findings made in response to the petitions from Connecticut and New York under the 1-hour standard for sources that are or will be located in the coarse grid portion of Michigan. The EPA has not identified any existing section 126 sources located in that area of the coarse grid. As discussed above in section I.C.2, in the *Michigan v. EPA* decision on the NO_x SIP call, the court indicated that "EPA must first establish that there is a measurable contribution" from the coarse grid portion of the State before holding the coarse grid portion of the State partly responsible for the significant contribution of downwind ozone nonattainment in another State. *Michigan v. EPA*, 213 F.3d at 684. Elsewhere, the Court seemed to identify the standard as "material contribution []". *Id.* In response to the court opinion, EPA is proposing to include only the fine grid portion of Michigan in the NO_x SIP call at this time. The EPA is applying the same reasoning to the

Section 126 Rule. The EPA does not have analyses specific to the coarse grid to demonstrate that emissions from that area measurably or materially contribute to nonattainment in the petitioning States. Therefore, EPA is proposing to deny the New York and Connecticut petitions with respect to the Michigan coarse grid sources. Under today's proposal, any existing or new sources located in that affected segment of the coarse grid (north of 44 degrees latitude, south of 45.0 degrees latitude, and east of 86.0 degrees longitude) would no longer be subject to the control requirements of the section 126 Rule.⁵

⁵ The EPA is taking a different approach to interpreting the fine-coarse grid split for purposes of a new NO_x SIP call proposal. Under the NO_x SIP call, with respect to Michigan, EPA is proposing findings only for the fine grid. Thus, the coarse grid portion, which was covered under the October 27, 1998 NO_x SIP call, would no longer be affected. The NO_x SIP call establishes State emissions budgets rather than regulating individual sources. Because of the uncertainties with accurately dividing emissions between the fine and coarse grid portions of individual counties, EPA is proposing that the NO_x SIP call emissions budgets be based on all counties that are wholly contained within the fine grid. That is, counties that are in the coarse grid or that straddle the fine-coarse grid line would be excluded. Because the section 126 action regulates specific stationary sources, the issue of how to apportion a full NO_x inventory on a partial-county basis does not arise. Therefore, the section 126 proposal follows the fine-coarse grid line exactly. The EPA notes that the Section 126 Rule has already covered partial counties for Michigan in its January 2000 Rule. In that rule, only sources east of 86 degrees longitude and south of 45 degrees latitude were affected.

C. Is EPA Proposing Action Under the 8-Hour Standard on the Affirmative Technical Determinations That Affect Coarse Grid Sources?

As discussed above in section I.B.1, as a result of the court decision on the 8-hour ozone standard, EPA voluntarily stayed the 8-hour affirmative technical determinations in the May 1999 Rule (65 FR 2674, January 18, 2000). Thus, EPA has not moved forward to make any section 126 findings or establish any control requirements based on the 8-hour portion of the May 1999 Rule. However, the affirmative technical determinations are final EPA actions specifying which portions of the 8-hour petitions are approvable and could provide a basis for future required control measures. The 8-hour affirmative technical determinations affect sources located in 19 States and the District of Columbia, including the coarse grid portions of Alabama, Michigan, Missouri, and New York. Because EPA has indefinitely stayed the section 126 Rule with respect to the 8-hour standard, EPA is not at this time proposing to revise the 8-hour affirmative technical determinations for coarse grid sources. The EPA intends to address these sources through notice-and-comment rulemaking if and when EPA is able to implement the 8-hour standard.

D. Does Today's Proposal Affect the Section 126 Requirements for Michigan Fine Grid Sources or Sources Located in Other States?

Today's proposal does not affect the NO_x allowance allocations for Michigan sources located in the fine grid that were established in the January 2000 Rule. In addition, today's proposal does not affect the section 126 trading budget for Michigan or the compliance supplement pool. The EPA has not identified any existing large EGUs and large non-EGUs in the coarse grid portion of Michigan affected by today's proposal. Therefore, the NO_x allowance calculations in the January 2000 Rule were already based only on fine grid emissions. This proposal does not affect any of the section 126 Rule requirements for sources located in other States. Therefore, today's proposal does not affect the ability of any sources located in the fine grid to comply with the section 126 requirements by the compliance deadline.

III. What Is the Revision to the Definition of "Applicable Requirement" for Title V Operating Permit Programs?

The EPA is proposing to revise the definitions of the "applicable requirement" in 40 CFR 70.2 and 71.2 by providing expressly that any standard or other requirement under section 126 of the CAA is an applicable requirement and must be included in operating permits issued under title V of the CAA. Section 504(a) of the CAA explicitly requires that each permit include "enforceable emission limitations and standards, a schedule of compliance, * * * and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan."⁴² U.S.C. 7661c(a). The current § 70.2 and § 71.2 definitions of "applicable requirement" do not include requirements that are imposed under section 126, even though section 126 authorizes the Administrator to adopt standards and requirements under certain circumstances as discussed above. Our proposed revision remedies this omission and clarifies the treatment, in title V operating permits, of section 126 requirements promulgated by the Administrator.

Emission limitations, compliance schedules, and other regulatory requirements adopted under section 126 are, on their face, requirements of the CAA and therefore should be included in the definitions of "applicable requirement" in § 70.2 and § 71.2.

Indeed, in the preamble of the January 18, 2000 final rule establishing the NO_x Budget Trading Program under section 126, EPA stated that the requirements of the final rule "are applicable requirements under § 70.2 and must be reflected in the title V operating permit" of sources that are subject to the program and required to have such a permit (65 FR 2688). However, this statement was based on an erroneous reading that paragraph (1) of the definition of "applicable requirement" in § 70.2 (which is identical to the definition of the same term in § 71.2) is written broadly enough to include section 126 requirements as an "applicable requirement."⁶

Despite the erroneous discussion in the preamble of the January 18, 2000 section 126 Rule, that rule expressly requires that title V operating permits include the requirements of the NO_x Budget Trading Program. Specifically, the rule states that, for each source required to have a "federally enforceable permit" (e.g., a title V operating permit), such permit must include the requirements of the NO_x Budget Trading Program for units subject to that program. *See* 40 CFR 97.20(a).

In order to clarify that section 126 requirements are indeed an applicable requirement under the CAA and must be included in title V operating permits, EPA is proposing to revise the definition of "applicable requirement" in § 70.2 and § 71.2 to expressly include standards and other requirements promulgated under section 126. The requirements of the NO_x Budget Trading Program promulgated on January 18, 2000 are an example of requirements that would be covered this proposed revision to § 70.2 and § 71.2.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the

⁶ The conclusion that the requirements of the NO_x Budget Trading Program under section 126 are an "applicable requirement" under § 70.2 was based on the assumption that, since section 126 is part of title I, these section 126 requirements are "provided for in the applicable implementation plan approved or promulgated by EPA through a rulemaking under title I." 40 CFR 70.2 (definition of "applicable requirement", paragraph (1)). In fact, however, section 126 requirements promulgated by EPA are not part of an implementation plan under section 110. *See* CAA section 302(q), 42 U.S.C. 7603(q) (definition of "applicable implementation plan").

requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Under Executive Order 12866, this proposed action is not a "significant regulatory action" and is therefore not subject to review by OMB. In the January 2000 Rule titled "Findings of Significant Contribution and Rulemaking on section 126 Petitions for Purposes of Reducing Interstate Ozone Transport," (65 FR 2674), EPA partially approved four section 126 petitions under the 1-hour ozone standard. Today's action proposes to withdraw its section 126 findings and deny petitions under the 1-hour ozone standard with respect to sources located in a portion of Michigan.

This proposed action does not create any additional impacts beyond what was promulgated in the January 2000 Rule. This proposed rule also does not raise novel legal or policy issues. Therefore, EPA believes that this action is not a "significant regulatory action."

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with "Federal mandates" 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 in any 1 year. A "Federal mandate" is defined to include a "Federal intergovernmental mandate" and a "Federal private sector mandate" (2 U.S.C. 658(6)). A "Federal intergovernmental mandate," in turn, is defined to include a regulation that

“would impose an enforceable duty upon State, local, or tribal governments,” (2 U.S.C. 658(5)(A)(i)), except for, among other things, a duty that is “a condition of Federal assistance” (2 U.S.C. 658(5)(A)(I)). A “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector,” with certain exceptions (2 U.S.C. 658(7)(A)).

The EPA has determined that this proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more for either State, local, or tribal governments in the aggregate, or for the private sector. This proposed Federal action does not propose any new requirements, as discussed above. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, would result from this action.

C. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today’s

proposed action imposes no additional burdens beyond those imposed by the January 2000 Rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today’s action does not significantly or uniquely affect the communities of Indian tribal governments. As discussed above, today’s proposed action imposes no new requirements that would impose compliance burdens beyond those that would already apply under the January 2000 rule. Accordingly, the requirements of Executive Order 13175 do not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Today’s proposal, if promulgated, would not create new requirements for small entities or other sources. Instead, this action is proposing to withdraw the section 126 requirements for sources that are or would be located in a specified portion of Michigan. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because this action is not “economically significant” as defined under Executive Order 12866 and the Agency does not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Transfer and Advancement Act of 1995 (“NTTAA”, Pub. L. 104–113 section 12(d) 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The National Technology Transfer and Advancement Act of 1997 does not apply because today's action does not propose any new technical standards. This action is proposing to amend the January 2000 Rule by reducing the portion of Michigan that is covered by the rule.

H. Paperwork Reduction Act

Today's action does not propose any new information collection request requirements. Therefore, an information collection request document is not required.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Today's action does not propose any new regulatory requirements.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Emissions trading,

Intergovernmental relations, Nitrogen oxides, Ozone, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 71

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: February 12, 2002.

Christine Todd Whitman,
Administrator.

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

2. Section 52.34 is amended by revising paragraphs (c)(2)(vi) and (g)(2)(vi) to read as follows:

§ 52.34 Action on petitions submitted under section 126 relating to emissions of nitrogen oxides.

* * * * *

(c) * * *

(2) * * *

(vi) Portion of Michigan located south of 44 degrees latitude in OTAG Subregion 2, as shown in appendix F, Figure F–2, of this part.

* * * * *

(g) * * *

(2) * * *

(vi) Portion of Michigan located south of 44 degrees latitude in OTAG Subregion 2, as shown in appendix F, Figure F–6, of this part.

* * * * *

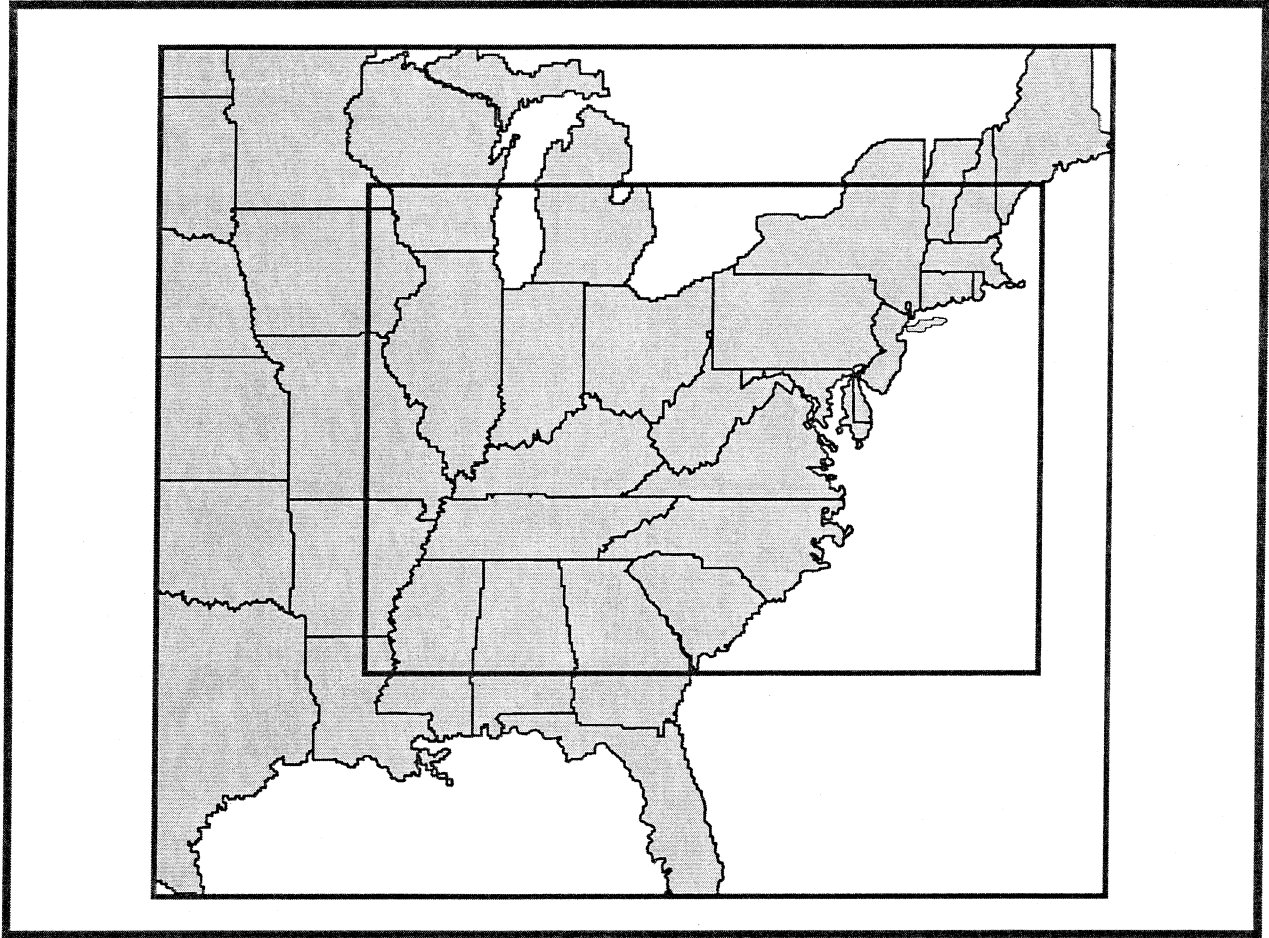
Appendix F—[Amended]

3. Appendix F is amended by adding a new figure F–10 in numerical order to read as follows:

Appendix F to Part 52—Clean Air Act Section 126 Petitions From Eight Northeastern States: Named Source Categories and Geographic Coverage

* * * * *

Figure F-10. Ozone Transport Assessment Group Modeling Domain



PART 70—STATE OPERATING PERMIT PROGRAMS

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

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

5. Section 70.2 is amended by redesignating paragraphs (7) through (12) of the definition of “Applicable requirement” as paragraphs (8) through (13) and adding a new paragraph (7) to read as follows:

§ 70.2 Definitions.
* * * * *

Applicable requirement * * *
(7) Any standard or other requirement under section 126(a)(1) and (c) of the Act;
* * * * *

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

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

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

7. Section 71.2 is amended by redesignating paragraphs (7) through (12) of the definition of “applicable

requirement” as paragraphs (8) through (13) and adding a new paragraph (7) to read as follows:

§ 71.2 Definitions.
* * * * *

Applicable requirement * * *
(7) Any standard or other requirement under section 126(a)(1) and (c) of the Act;
* * * * *



Federal Register

**Friday,
February 22, 2002**

Part IV

Environmental Protection Agency

40 CFR Parts 51, 52, et al.

**Interstate Ozone Transport: Response to
Court Decisions on the NO_x SIP Call,
NO_x SIP Call Technical Amendments, and
Section 126 Rules; Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 51, 52, 96, and 97**

[FRL-7147-6]

RIN 2060-AJ16

Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: In today's action, we are proposing to amend two related final rules we issued under sections 110 and 126 of the Clean Air Act (CAA) related to interstate transport of nitrogen oxides (NO_x), one of the main precursors to ground-level ozone. We are responding to the March 3, 2000 decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in which the Court largely upheld the NO_x State Implementation Plan Call (NO_x SIP Call), but remanded four narrow issues to us for further rulemaking action; the related decision by the D.C. Circuit on June 8, 2001, concerning the rulemakings providing technical amendments to the NO_x SIP Call, in which the Court, among other things, vacated and remanded an issue for further rulemaking; and the decision by the D.C. Circuit on May 15, 2001, concerning the related, section 126 rulemaking, in which the Court, among other things, vacated and remanded an issue for further rulemaking; and the related decision by the D.C. Circuit on August 24, 2001, concerning the Section 126 Rule, in which the Court remanded an issue.

In the final NO_x SIP Call, we found that emissions of NO_x from 22 States and the District of Columbia (23 States) significantly contribute to downwind areas' nonattainment of the 1-hour ozone national ambient air quality standards (NAAQS). We established statewide NO_x emissions budgets for the affected States. In rulemakings providing technical amendments to the NO_x SIP Call budgets, we revised those budgets. Today's action addresses the issues remanded by the Court in the two cases involving challenges to both the NO_x SIP Call and the rulemakings providing technical amendments for notice-and-comment rulemaking and proposes related amendments.

In today's action, we are also responding to the D.C. Circuit's decisions in a third case concerning a related rulemaking, the Section 126

Rule, in which the Court remanded an issue and vacated an issue. This action addresses the vacated issue.

DATES: Comments must be postmarked, faxed, or e-mailed by April 15, 2002. A public hearing, if requested, will be held in Washington, DC, on March 15, 2002, beginning at 9:00 am.

ADDRESSES: Comments (in duplicate if possible) may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-56, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone (202) 260-7548, fax (202) 260-4400, and e-mail *A-and-R-docket@epa.gov*. We encourage electronic submissions of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

The public hearing, if requested, will be held at Crystal Mall 2 (Room 1110; the "fishbowl"), Crystal City, 1921 Jefferson Davis Hwy, Arlington, VA 22202.

Documents relevant to this action are available for inspection at the U.S. Environmental Protection Agency, 401 M Street, SW, Waterside Mall, Room M-1500, Washington, DC 20460, between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

General questions concerning today's action should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC, 27711, telephone (919) 541-5665, e-mail at *king.jan@epa.gov*. Technical questions concerning EGUs in today's document should be directed to Kevin Culligan, Office of Atmospheric Programs, Clean Air Markets Division, (6204M), 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 564-9172, e-mail *culligan.kevin@epa.gov*; technical questions concerning internal combustion engines should be directed to Doug Grano, Office of Air Quality Planning and Standards, C539-02, Research Triangle Park, North Carolina 27711, telephone (919) 541-3292, e-mail *grano.doug@epa.gov*; legal questions should be directed to Howard J. Hoffman, Office of General Counsel, (2344A), 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 564-5582, e-mail *hoffman.howard@epa.gov*.

SUPPLEMENTARY INFORMATION: Today's action addresses the issues remanded or vacated for notice-and-comment rulemaking by the D.C. Circuit in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000), *cert. denied*, 121 S. Ct. 1225, 149 L. ED. 135 (2001), which concerned the NO_x SIP Call (the "SIP call case"); *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001), which concerned the technical amendments rulemakings for the NO_x SIP Call (the "Technical Amendments case"); and *Appalachian Power v. EPA*, 249 F.3d 1042 (D.C. Cir. 2001) and *Appalachian Power v. EPA*, No. 99-1200, Order (D.C. Cir., August 24, 2001), which concerned the section 126 rulemaking (the "Section 126 case").

In this action, we are proposing to:

- (1) Retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call and in the Section 126 Rule, and retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call with only minor revisions to make the definition consistent with the Section 126 Rule.

- (2) Revise the control levels for stationary internal combustion engines that were assumed in calculating NO_x SIP call budgets for each State,

- (3) Exclude portions of Georgia, Missouri, Alabama and Michigan from the NO_x SIP Call (the court ruling focused on Georgia and Missouri, but the same issue is relevant to Alabama and Michigan),

- (4) Revise statewide emissions budgets in the NO_x SIP Call to reflect the disposition of the first three issues above,

- (5) Set a range of dates for 19 States and the District of Columbia to submit State implementation plans to achieve the emissions reductions required by this second phase of the NO_x SIP Call, and for Georgia and Missouri to submit SIPs meeting the full NO_x SIP Call: 6 months through 1 year from final promulgation of this rulemaking but no later than April 1, 2003,

- (6) Set a compliance date of May 31, 2004, for all sources except those in Georgia and Missouri; and sources in those two States would have a May 1, 2005 compliance date,

- (7) Exclude Wisconsin from NO_x SIP Call requirements.

Ground-level ozone has long been recognized to affect public health. Ozone induces health effects, including decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), increased hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-

existing respiratory disease such as asthma), increased inflammation of the lungs, and possible long-term damage to the lungs.

Public Hearing

A public hearing, if requested, will be held on March 15, 2002 beginning at 9:00 am. The hearing will be held at Crystal Mall 2 (Room 1110, the "fishbowl"), Crystal City, 1921 Jefferson Davis Hwy, Arlington, VA 22202. The metro stop is Crystal City, which is located about 1 1/2 blocks from Crystal Mall 2. If you wish to request a hearing and present oral testimony or attend the hearing, you should notify, on or before March 7, 2002, Ms. JoAnn Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-1815, e-mail allman.joann@epa.gov. Oral testimony will be limited to 5 minutes each. The hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket No. A-96-56 and, to the extent they concern the Section 126 Rule, Docket No. A-97-43, at the address listed above for submitting comments. The hearing schedule, including lists of speakers, will be posted on EPA's webpage at <http://www.epa.gov/ttn/rto/whatsnew.html>. A verbatim transcript of the hearing and written statements will be made available for copying during normal working hours at the Office of Air and Radiation Docket and Information Center at the above address listed for inspection of documents.

If no requests for a public hearing are received by close of business March 7, 2002, the hearing will be cancelled. The cancellation will be announced on the webpage at the address shown above.

Electronic Availability

Electronic comments are encouraged and can be sent directly to EPA at: A-and-R-Docket@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 8.0 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-96-56 and, to the extent they concern the Section 126 Rule, docket number A-97-43. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Availability of Related Information

The official records for the NO SIP Call rulemaking (including the Technical Amendments) and for the Section 126 Rule, as well as the public versions of the records, have been established under docket numbers A-96-56 and A-97-43, respectively (including comments and data submitted electronically as described below). We have added new sections to those dockets for purposes of today's proposed rulemaking. The public version of these records, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, are available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The rulemaking records are located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemakings and associated documents are located at <http://www.epa.gov/ttn/rto/>.

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I. Background

A. What Was Contained in the NO_x SIP Call?

By notice dated October 27, 1998 (63 FR 57356), we took final action to prohibit specified amounts of emissions of one of the main precursors of ground-level ozone, NO_x, in order to reduce ozone transport across State boundaries in the eastern half of the United States. Based on extensive air quality modeling and analyses, we found that sources in 23 States emit NO_x in amounts that significantly contribute to nonattainment of the 1-hour ozone NAAQS in downwind States. We set forth requirements for each of the affected upwind States to submit SIP revisions prohibiting those amounts of NO_x emissions which significantly contribute to downwind air quality problems. We established statewide NO_x emissions budgets for the affected States. The budgets were calculated by assuming the emissions reductions that would be achieved by applying available, highly cost-effective controls to source categories of NO_x. States have the flexibility to adopt the appropriate mix of controls for their State to meet the NO_x emissions reductions requirements of the SIP Call. A number of parties, including certain States as well as industry and labor groups, challenged our NO_x SIP Call Rule.

Independently, we also found that sources and emitting activities in 23 States emit NO_x in amounts that significantly contribute to nonattainment of the 8-hour ozone NAAQS. However, we have indefinitely stayed the NO_x SIP Call as it applies for the purposes of the 8-hour NAAQS (65 FR 56245, September 18, 2000).

B. What Were the Court Decisions on the NO_x SIP Call?

1. What Was the Decision of the Court on the 8-Hour NAAQS?

On May 14, 1999, the D.C. Circuit issued an opinion which, in relevant parts, questioned the constitutionality of the CAA as applied by EPA in its 1997 revision of the ozone NAAQS. See *American Trucking Ass'n v. EPA*, 175 F.3d 1027 (D.C. Cir., 1999). The Court's ruling curtailed our ability to require States to comply with a more stringent ozone NAAQS.

On October 29, 1999, the D.C. Circuit granted in part and denied in part our rehearing request. *American Trucking Ass'n v. EPA*, 194 F.3d 4 (D.C. Cir. 1999). In May 2000, the Supreme Court granted our petition and certain petitioners' cross-petitions of certiorari. On February 27, 2001, the Supreme

Court handed down its decision in *Whitman v. American Trucking Association*, 531 U.S. 457 (2001). In vacating the D.C. Circuit's holding on the point, the Supreme Court held that the CAA was not unconstitutional in its delegation of authority for us to promulgate a revised ozone NAAQS. The case was remanded to the D.C. Circuit to consider challenges to the revised ozone NAAQS on other grounds.

2. What Effect Did This Have on the 8-hour Portion of the NO_x SIP Call?

The litigation created uncertainty with respect to our ability to rely upon the 8-hour ozone standards as an alternative basis for the NO_x SIP Call. As a result, we stayed indefinitely the findings of significant contribution based on the 8-hour standard, pending further developments in the NAAQS litigation (65 FR 56245, September 18, 2000). Because the NO_x SIP Call Rule was based independently on the 1-hour standards, a stay of the findings based on the 8-hour standards had no effect on the remedy required by the 1998 NO_x SIP Call. That is, the stay does not affect our findings based on the 1-hour standards.

3. What Was the D.C. Circuit Decision on the Stay of the SIP Submittal Schedule for the NO_x SIP Call?

The NO_x SIP Call Rule required States to submit SIP revisions by September 30, 1999. State Petitioners challenging the NO_x SIP Call filed a motion requesting the Court to stay the submission schedule until April 27, 2000. In response, the D.C. Circuit issued a stay of the SIP submission deadline pending further order of the Court. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (May 25, 1999 order granting stay in part).

4. What Was the Court's Decision on the NO_x SIP Call?

On March 3, 2000, the D.C. Circuit issued its decision on the NO_x SIP Call, ruling in our favor on the issues that affected the rulemaking as a whole, but ruling against us on several geographic and procedural issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000). The Court's decision in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) concerns only the 1-hour basis for the NO_x SIP Call, and not the 8-hour basis. The requirements of the NO_x SIP Call, including the findings of significant contribution by the 23 States, the emissions reductions that must be achieved, and the requirement for States to submit SIPs meeting statewide NO_x emissions reductions requirements, are

fully and independently supported by our findings under the 1-hour NAAQS alone. The Court denied petitioners' requests for rehearing or rehearing *en banc* on July 22, 2000. Specifically, the Court found in our favor on the following claims:

(1) We could call for the SIP revisions without convening a transport commission;

(2) We undertook a sufficiently State-specific determination of ozone contribution;

(3) We did not unlawfully override past precedent regarding "significant" contribution;

(4) Our consideration of the cost of NO_x reduction as part of the determination of significant contribution is consistent with the statute and judicial precedent;

(5) Our scheme of uniform emissions reductions requirements is reasonable;

(6) CAA § 110(a)(2)(D)(i)(I) as construed by us does not violate the nondelegation doctrine;

(7) We did not intrude on the statutory rights of States to fashion their SIPs;

(8) We properly included South Carolina in the SIP Call; and

(9) We did not violate the Regulatory Flexibility Act.

However, the Court ruled against us on four specific issues. Specifically, the Court:

(1) Remanded and vacated the inclusion of Wisconsin because emissions from Wisconsin did not show a significant contribution to downwind nonattainment of the NAAQS;

(2) remanded and vacated the inclusion of Georgia and Missouri in light of the Ozone Transport Assessment Group (OTAG) conclusions that emissions from coarse grid portions did not merit controls;

(3) held that we failed to provide adequate notice of the change in the definition of EGU as applied to cogeneration units that sell electricity to the grid in amounts of either one-third or less of their potential electrical output capacity or 25 megawatts or less per year (small cogenerators); and

(4) held that we failed to provide adequate notice of the change in control level assumed for large stationary internal combustion engines.

The Court remanded the last two matters for further rulemaking.

5. How Did the Court Respond to EPA's Request to Lift the Stay of the 1-Hour SIP Submission Schedule?

On April 11, 2000, we filed a motion with the Court to lift the stay of the SIP submission date. We requested that the Court lift the stay as of April 27, 2000.

We recognized, however, that at the time the stay was issued, States had approximately 4 months (128 days) remaining to submit SIPs. Therefore, our motion to lift the stay indicated that we would allow States until September 1, 2000 to submit SIPs addressing the SIP Call and provided that States could submit only those portions of the SIP Call upheld by the Court (Phase I SIPs). The existing record in the NO_x SIP Call rulemaking provides a breakdown of the data on which the original budgets were developed sufficient to allow States to develop Phase I SIPs. However, we reviewed the record and for the convenience of the States and in letters to the State Governors and State Air Directors, dated April 11, 2000, we identified an adjusted Phase I NO_x budget for each State for which the SIP Call applies.

On June 22, 2000, the Court granted our request in part. The Court ordered that we allow the States 128 days from the June 22, 2000 date of the order to submit their SIPs. Therefore, SIPs in response to the NO_x SIP Call were due October 30, 2000.¹

In our motion to lift the stay, we informed the Court that the Agency asked 19 States and the District of Columbia, in letters to the Governors dated April 11, 2000, to submit SIPs subject to the Court's response to our motion to lift the stay. The 19 States are: Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia and West Virginia. Rather than submit a SIP that fully meets the NO_x SIP Call, these 19 States and the District of Columbia may choose to submit SIPs that cover all of the NO_x SIP Call requirements except for a small part of the EGU portion and large internal combustion engine portion of the budget. We refer to these partial plans that address the portion of the rule unaffected by the Court's remand as the "Phase I" SIPs.² Because the SIP Call was vacated with respect to Georgia, Missouri, and Wisconsin, those States were not obligated to submit any SIPs by October 30, 2000. The SIPs that cover the portion of the rule affected by the Court decision—and the subject of today's action—are termed, the "Phase II" SIPs.

¹ October 30, 2000 was the first business day following the expiration of the 128-day period.

² The Phase I emissions reductions should achieve approximately 90 percent of the total emissions reductions called for by the NO_x SIP Call.

6. What Was the Court's Order for the Compliance Date?

On August 30, 2000, the D.C. Circuit ordered that the court order filed on June 22, 2000 be amended to extend the deadline for full implementation of the NO_x SIP Call from May 1, 2003 to May 31, 2004. This extension was calculated in the same manner used by the Court in extending the deadline for SIP submissions, so that sources in States subject to the NO_x SIP Call would have 1,309 days for implementing the SIP as provided in the original NO_x SIP Call. This action was in response to a motion filed by the industry/labor petitioners.

C. What Was the Section 126 Rule?

We have also addressed interstate NO_x transport in a final rule (Section 126 Rule) that responds to petitions submitted by eight Northeast States under section 126 of the CAA (65 FR 2674, January 18, 2000) (the Section 126 Rule). In this rule, we made findings that 392 sources in 12 States and the District of Columbia are significantly contributing to 1-hour ozone nonattainment problems in the petitioning States of Connecticut, Massachusetts, New York, and Pennsylvania. The upwind States with sources affected by the Section 126 Rule are: Delaware, Indiana, Kentucky, Maryland, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia.³ The types of sources affected are large EGUs⁴ and large industrial boilers and turbines (non-EGUs). The rule established Federal NO_x emissions limits for the affected sources and set a May 1, 2003 compliance date.⁵ We promulgated a NO_x cap-and-trade program as the control remedy. All of the sources affected by this Section 126 Rule are located in States that are subject to the NO_x SIP Call.

The Section 126 Rule includes a provision to coordinate the Section 126 Rule with State actions under the NO_x SIP Call. This provision automatically withdraws the Section 126 findings and control requirements for sources in a State if the State submits, and we give final approval to, a SIP revision meeting the full NO_x SIP Call requirements, including the originally promulgated

³ For Indiana, Kentucky, Michigan, and New York, only sources in portions of the State are affected by that rule.

⁴ The Section 126 Rule uses the same definition of EGUs that we are proposing for the NO_x SIP Call in today's action.

⁵ As discussed in the next section, on August 24, 2001, the D.C. Circuit suspended the compliance date for EGUs while we resolve a remanded issue related to EGU growth factors.

May 1, 2003 compliance deadline (40 CFR 52.34(i)). While the Court has changed the NO_x SIP Call compliance deadline to May 31, 2004, we promulgated and justified the automatic withdrawal provision based on approval of a SIP with a May 1, 2003 compliance date (64 FR 28274–76, May 25, 1999; 65 FR 2679–2684, January 18, 2000). Thus, the automatic withdrawal provision in the Section 126 Rule does not address any other circumstances. Additional issues regarding the interaction of the Section 126 Rule and SIPs under the NO_x SIP Call may be addressed through future rulemaking.⁶

1. What Was the D.C. Circuit Decision on the Section 126 Rule?

On May 15, 2001, a panel of the D.C. Circuit largely upheld the Section 126 Rule in *Appalachian Power v. EPA*, 249 F.3d 1032 (2001). (*Appalachian Power*—Section 126). However, the Court remanded to us the method for determining growth to the year 2007 in heat input utilization by EGUs. This calculation is important for determining the requirements for EGUs. In addition, the Court vacated and remanded to us the portion of the rule classifying as EGUs small cogenerators (cogeneration units that sell electricity to the grid in amounts of either one-third or less of their potential electrical output capacity or 25 megawatts or less per year). Although in the *Michigan* decision (concerning the NO_x SIP Call rulemaking), the D.C. Circuit remanded this issue on the procedural ground of inadequate notice, in the *Appalachian Power*—Section 126 decision, the Court vacated and remanded on grounds that we did not justify our classification of small cogenerators as EGUs. In an order dated on August 24, 2001, the D.C. Circuit issued an order in the *Appalachian Power*—Section 126 Case, remanding the Section 126 Rule with regard to the classification of any cogenerators as EGUs and tolling (suspending) the date for EGUs to implement controls pending EPA's resolution of the EGU growth factor remand.

During the course of the litigation on the Section 126 Rule, individual sources or groups of sources challenged the rule on grounds that our allocations of allowances were improper. We settled these cases with several of those sources

⁶ A memo dated January 16, 2002 from John Seitz, Director, Office of Air Quality Planning and Standards to the EPA Regional Air Division Directors, indicated our intent to reset the compliance date for EGUs and non-EGUs to May 31, 2004, subject to our response to the growth factor remand.

with our agreement to propose a rulemaking revising the allocations.

D. What Were the Technical Amendments Rulemakings?

When we promulgated the NO_x SIP Call Rule, we decided to reopen public comment on the source-specific data used to establish each State's 2007 EGU budget (63 FR 57427, October 28, 1998). We extended this comment period by notice dated December 24, 1998 (63 FR 71220). We indicated that we would entertain requests to correct the 2007 EGU budgets to take into account errors or updates in some of the underlying emissions inventory and certain other specified data.

Following our review of the comments received, we published a rulemaking providing Technical Amendments to, among other things, the 2007 EGU budgets (64 FR 26298, May 14, 1999). In response to additional comments received, we published a second rulemaking, making additional Technical Amendments to the 2007 EGU budgets (65 FR 11222, March 2, 2000). (These two rulemakings may be referred to, together, as the Technical Amendments Rule.) In promulgating the Technical Amendments Rule, we kept intact our method for determining the budgets, including the methods for determining growth to 2007. We simply made adjustments for particular sources concerning whether they were large EGUs or non-EGUs, and adjustments in the appropriate baselines for those sources.

1. What Was the D.C. Circuit Decision on the Technical Amendments?

On June 8, 2001, the D.C. Circuit issued its opinion in a case involving the Technical Amendments. *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001). (*Appalachian Power-Technical Amendments*). Although largely upholding the Technical Amendments, the Court, as in the *Appalachian Power-Section 126* case, remanded the EGU growth factors and vacated and remanded the portion of the rule classifying small cogenerators as EGUs. In addition, in the *Appalachian Power-Technical Amendments* decision, the Court remanded and vacated the budget under the Technical Amendments Rule for Missouri under both the 1-hour and 8-hour ozone NAAQS.

E. What is the Overview of D.C. Circuit Remands/Vacatures?

In summary, the D.C. Circuit decisions described above revised or remanded/vacated portions of the NO_x

SIP Call, Section 126, and Technical Amendments rulemakings as follows:

- (1) Remanded the portion of the NO_x SIP Call requirements based on the assumed control level for stationary internal combustion engines;
- (2) Delayed the NO_x SIP Call SIP submittal date to October 30, 2000. *Michigan* (NO_x SIP Call);
- (3) Delayed the date for implementation of the NO_x SIP Call reductions to May 31, 2004. *Michigan*;
- (4) Remanded and vacated the inclusion of Wisconsin. *Michigan*;
- (5) Remanded and vacated the NO_x SIP Call budgets for Georgia and Missouri under the 1-hour ozone NAAQS. *Michigan*;
- (6) Remanded and vacated the NO_x SIP Call budget, as revised by the Technical Amendments, for Missouri, under the 1-hour and 8-hour ozone NAAQS. *Appalachian Power-Technical Amendments*;
- (7) Remanded the EGU growth formula. *Appalachian Power-Section 126*, *Appalachian Power-Technical Amendments*;
- (8) Remanded, or remanded and vacated, the classification of small cogenerators as EGUs. *Michigan*, *Appalachian Power-Section 126*, *Appalachian Power-Technical Amendments*; and
- (9) Remanded the classification of any cogenerators as EGUs. *Appalachian Power-Section 126*.

F. What Is Our Process for Addressing the Remands/Vacatures?

To date, we have responded to these decisions as follows:

In letters dated April 11, 2000, to the Governors of the affected States, we advised that the States may submit by October 30, 2000 Phase I SIPs that include a budget allowing more emissions than under the NO_x SIP Call Rule. This budget need not include any reductions from a set of EGUs that we believe includes all of the small cogenerators or reductions from internal combustion engines. In addition, we advised Wisconsin that it need not submit a NO_x SIP Call SIP revision. Further, we advised Georgia and Missouri that they did not have to submit NO_x SIP Call SIPs at this time. We advised Alabama and Michigan that although the Court upheld the NO_x SIP Call for their entire States, the reasoning of the Court's opinion concerning Georgia and Missouri supported excluding emissions from the coarse-grid portion of their States. We also stated that if they wanted the coarse-grid portion of their States excluded, they could submit a Phase I budget addressing sources in only the fine-grid

portion of the State. All States were further advised that the remanded issues would be addressed in a future rulemaking.

Many States did not officially submit complete SIPs as required by October 30, 2000. By notice dated December 26, 2000 (65 FR 81366), we issued findings of failure to submit. A challenge to those findings has been filed in the D.C. Circuit.

Today's action sets forth our proposal for the second phase or Phase II of the NO_x SIP Call by addressing the classification of cogenerators as EGUs, and adjusting the budgets accordingly; the control level for large internal combustion engines; the date by which States must submit a Phase II budget, and Georgia and Missouri must submit SIPs to meet the full NO_x SIP Call budget; the compliance dates for States to meet their Phase II budgets, and for Georgia and Missouri to meet the full NO_x SIP Call budget; and the emissions budgets for Georgia and Missouri, which are proposed to be based on only the fine-grid portion of these States. In addition, we propose to modify the budgets for Alabama and Michigan based on inclusion of only the fine grid portion of those States. Further, we are proposing to exclude Wisconsin from the NO_x SIP Call.

Any additional emissions reductions required as a result of a final rulemaking on this proposal will be reflected in the Phase II portion of the State's emissions budget. The emissions reductions required in Phase II are relatively small, representing less than 10 percent of total reductions required by the SIP Call. The due date for the SIPs meeting the resulting State emissions budgets ("Phase II" SIPs) and partial State budgets for Georgia and Missouri is discussed below in sections II.J and II.K. The proposed changes to the State's emissions budgets are discussed in section II.E.

As noted above, today's action proposes to continue the classification of cogenerators as EGUs, and presents support for that classification.

In addition, in today's action, we request that cogenerators that would be subject to classification as EGUs in the NO_x SIP Call and the Section 126 Rule identify themselves as cogenerators and, if applicable, small generators, so that EPA and the States will be able to clarify that portion of their NO_x inventory.

Today's action also includes technical housekeeping by making minor revisions to the NO_x SIP Call definition of EGUs and non-EGUs to make those definitions consistent with the definitions of EGUs and non-EGUs in

the Section 126 Rule. Today's proposal retains those definitions in the Section 126 Rule.

Today's proposal does not address the EGU growth remand. We intend to act on that issue separately. If any additional revisions to budgets are necessary, they will be addressed in that action. By notice dated August 3, 2001, we published our preliminary response to the remand in which we indicated that we believed our method for estimating growth in emissions from EGUs was reasonable, we notified the public that we were examining additional data, which we put in the docket, and invited comment on that data (66 FR 40609).

Today's proposal does not address NO_x SIP Call issues related to the 8-hour NAAQS, and we have no plans in the immediate future to announce a specific process for doing so. We have stayed the findings in the NO_x SIP Call based on the 8-hour NAAQS, and are continuing to conduct rulemaking concerning the 8-hour NAAQS.

II. What Is the Scope of This Proposal?

In this action, we are soliciting comment on only the specific changes the Agency is proposing in response to the Court's rulings on the NO_x SIP Call, Section 126, and Technical Amendments rulemakings. We are not reopening the remainder of those three rulemakings for public comment and reconsideration. Specifically, we are soliciting comment on the following:

(1) Certain aspects of the definitions of EGU and non-EGU. We are not proposing to change the manner in which the budgets are calculated for EGUs and non-EGU boilers and turbines under the final NO_x SIP Call, the Technical Amendments, and the Section 126 Rules. We also are not proposing to change the definitions of EGU and non-EGU used in the Section 126 Rules (e.g., in the allocation methodology). We are addressing the issues concerning the definition of EGU as applied to certain cogeneration units by proposing to retain the EGU definition in the Section 126 Rule and to retain the basic EGU definition used in the NO_x SIP Call Rule with minor, technical revisions to make it consistent with the definition in the Section 126 Rule.

As part of our treatment of the cogenerator issues, we are increasing the required level of emissions reductions, and thus reducing the budgets, to require reductions from a set of units—termed the non-acid rain units—that we excluded as part of Phase I on grounds that they include small cogenerators.

By way of background, in light of the *Michigan* decision concerning the NO_x SIP Call, we adopted the view that the States should proceed with developing and submitting to us their SIP controls at the level that was undisturbed by the Court's ruling. Accordingly, we determined that the SIPs required to be submitted on the schedule established by the Court (October 30, 2000), which we have termed the Phase I SIPs, should reflect all reductions required under the NO_x SIP Call rulemaking except those reductions attributable to parts of the rule that the Court remanded or vacated, including small cogenerators. However, at the time we adopted this position, we were uncertain as to which units constituted small cogenerators, and the total emissions attributable to small cogenerators.

Even so, we were aware that although most of the EGUs that were subject to the NO_x SIP Call were also controlled under the Acid Rain Program, none of the small cogenerators were controlled under the Acid Rain Program. (Units controlled under the Acid Rain Program may be termed "acid rain units," and those not so controlled may be termed "non-acid rain units.") Accordingly, we erred on the side of caution by authorizing States, in their Phase I SIPs, to exclude the required reductions from all non-acid rain units. As a result, the Phase I SIPs may provide for fewer required reductions and higher budgets than would have been required if EPA had been able to determine which of the non-acid rain units should have been categorized as small cogenerators.

In today's action, we are proposing to continue the classification of certain cogenerators, including small cogenerators, as EGUs. As a result, it makes sense to require States to include in their Phase II SIPs the anticipated emissions reductions from non-acid rain units. This approach will have the effect of increasing the SIPs' required level of reductions and decreasing the budgets.

In the final rule, we will indicate the sources we believe should be classified as small cogenerators. It is conceivable that this process of identifying sources will lead us to conclude that some of the non-acid rain units should not be included as EGUs and, therefore, that further adjustments to the budgets of particular States may be necessary. In this case, we will make those further adjustments in the final rule. Because we anticipate that only a small number of sources currently meet the definition of small cogenerators, we expect few, if any, revisions to the budgets resulting from today's proposal, and if any revisions do result, we anticipate that

they will be very small and will not affect most States.

We are proposing minor, technical changes to the EGU definition in the NO_x SIP Call to make it consistent with the definition of EGU used in the Section 126 Rule. Since the EGU definition establishes the dividing line between the EGU and non-EGU categories, the proposed changes to the EGU definition result in corresponding proposed changes to the non-EGU definition in the NO_x SIP Call, which make it consistent with the non-EGU definition in the Section 126 Rule. Today's action concerning these definitions does not propose any specific revisions to the budgets established under the final NO_x SIP Call and the Technical Amendments.

(2) The control level assumed for large stationary internal combustion engines in the NO_x SIP Call. We are proposing a range of possible control levels (82 to 91 percent) to the internal combustion engine portion of the budget.

(3) Partial-State budgets for Georgia, Missouri, Alabama, and Michigan in the NO_x SIP Call.

(4) Changes to the statewide NO_x budgets in the NO_x SIP Call to reflect the appropriate increments of emissions reductions that States should be required to achieve with respect to the three remanded issues (discussed above in numbers 1, 2, 3).

(5) A range of SIP submission dates for the 19 States and the District of Columbia to address the Phase II portion of the budget, and for Georgia and Missouri to submit full SIPs meeting the NO_x SIP Call: 6 months through 1 year from final promulgation of this rulemaking, but no later than April 1, 2003.

(6) The compliance date of May 31, 2004 under the NO_x SIP Call for all sources except those in Georgia and Missouri, and the compliance date of May 1, 2005 for sources in Georgia and Missouri.

(7) The exclusion of Wisconsin from the NO_x SIP Call.

A. How Do We Treat Cogenerators and Non-Acid Rain Units?

Under the NO_x SIP Call, the amount of a State's significant contribution to nonattainment in another State included the amount of highly cost-effective reductions that could be achieved for large EGUs and large non-EGUs in the State. No reductions for small EGUs or small non-EGUs were included. We determined that reductions by large EGUs to 0.15 lb NO_x/mmBtu and by large non-EGUs to 60 percent of uncontrolled emissions are highly cost effective. In developing the States'

budgets, we applied definitions of EGU and non-EGU and determined which sources were large EGUs or large non-EGUs.

In its *Michigan* decision, the D.C. Circuit upheld this approach, but determined that we did not provide sufficient notice and opportunity to comment for one aspect of our definition of EGU and remanded the rulemaking to us for further consideration. Specifically, a petitioner claimed, and the Court agreed, that “EPA did not provide sufficient notice and opportunity for comment on [the] revision” of the EGU definition to remove the exclusion, from the “EGU” category, of cogeneration units with annual electricity sales of one-third or less of the units’ potential electrical output capacity, or 25 megawatts (MWe) or less. (A cogeneration unit may be owned by a utility or a non-utility and is a unit that uses the same energy to produce both thermal energy (heat or steam) that is used for industrial, commercial, or heating or cooling purposes; and electricity.) *Michigan v. EPA*, 213 F.3d at 691–92. According to the Court, “two months after the promulgation of the [NO_x SIP Call] rule, EPA redefined an EGU as a unit that serves a ‘large’ generator (greater than 25 MWe) that sells electricity.” *Id.* Application of the exclusion for cogeneration units from the definition of EGU would result in treating as non-EGUs those cogeneration units meeting the criteria for the exclusion and treating as EGUs those cogeneration units not meeting the exclusion criteria. See Brief of Petitioner Council of Industrial Boiler Owners (CIBO) at 4 (submitted in *Michigan*).

The petitioner argued that, under the NO_x SIP Call, we should apply the criteria for excluding cogeneration units from treatment as utility units. According to the petitioner, the exclusion criteria had been established under the regulations implementing new source performance standards and under title IV of the CAA and the regulations implementing the Acid Rain Program under title IV. The petitioner also stated that section 112 of the CAA defines “electricity steam generating unit” to exclude cogeneration units meeting the same thresholds.

The Court found that, in failing to apply the exclusion criteria for cogeneration units, EPA “was departing from the definition of EGUs as used in prior regulatory contexts” and “was not explicit about the departure from the prior practice until two months after the rule was promulgated.” *Michigan*, 213 F.3d at 692. Further, the Court found that:

it is an exaggeration to state that some general “theme” of the regulatory consequences of deregulation of the utility industry throughout rulemaking meant that EPA’s last-minute revision of the definition of EGU should have been anticipated by industrial boilers as a “logical outgrowth” of EPA’s earlier statements.

Id. The Court therefore remanded the rulemaking to us for further consideration of this issue.

In its decisions on the Section 126 Rule and the Technical Amendments Rulemakings, the D.C. Circuit, after considering the merits of the issue, vacated and remanded our classification of small cogenerators as EGUs. The Court held that we had failed to justify this classification and base it on adequate record support comparing the NO_x reduction costs of cogenerators to those of other EGUs or demonstrating that there is no relevant physical or technological difference between small cogenerators and utilities. In the Section 126 decision, the Court also remanded our classification of any cogenerators as EGUs.

We discuss below the historical definition of utility unit, the definition of EGU in the NO_x SIP Call and the Section 126 rulemaking, today’s proposed rule addressing certain aspects of the EGU definition, and the rationale for the proposed rule. As discussed below, in prior regulatory programs, we have sought to distinguish between utilities (regulated monopolies in the business of producing and selling electricity) and non-utilities. In making this distinction, we applied the “one third potential electrical output capacity/25 MWe sales criteria.” These criteria defined a non-utility unit as a unit producing electricity for annual sales in an amount equal to the lesser of: (i) one-third or less of a unit’s potential electrical output capacity; or (ii) 25 MWe or less. Note that the criteria did not always apply only to cogeneration units and did not uniformly result in “less” regulation for sources meeting the criteria. With the development of competitive markets for electricity generation and sale, we believe that these criteria no longer distinguish between units in the business of producing and selling electricity (*i.e.*, EGUs) and non-EGUs. In addition, there are no relevant differences between the way cogenerating units and non-cogenerating units are built and operated that justify continuing to use these criteria or that affect the general ability of cogenerating units to control NO_x. We are today proposing to retain the basic definition of EGU in the NO_x SIP Call and the Section 126 Rule and to continue to apply it to cogenerators.

1. What Is the Historical Definition of Utility Unit?

In prior regulatory programs, we have used variations of the one-third potential electrical output capacity/25 MWe sales criteria to distinguish between utilities and non-utilities. The Agency began using these criteria in 1978, in 40 CFR part 60, subpart Da. Subpart Da established new source performance standards for “electric utility steam generating units” capable of combusting more than 250 mmBtu/hr of fossil fuel. “Electric utility steam generating unit” was defined as a unit “constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MWe electrical output to any utility power distribution system for sale” (40 CFR 60.41a). In that case, the criteria were not used to exempt units entirely from new source performance standards. Rather, the criteria were used to classify units capable of combusting more than 250 mmBtu/hr of fossil fuel as either “electric utility steam generating units” subject to the requirements under subpart Da or to classify them as non-utility “steam generating units” which, depending on the date of construction, continued to be subject to the requirements for “Fossil-Fuel-Fired Steam Generators” under subpart D or subsequently became subject to the requirements for “Industrial-Commercial-Institutional Steam Generating Units” under subpart Db. See 40 CFR 60.41a (definitions of “steam generating unit” and “electric utility steam generating unit”), 60.40b(a) (stating that subpart Db applies to “steam generating units” with heat input capacity of more than 100 mmBtu/hr), and 60.40b(e) (stating that “electric steam generating units” subject to subpart Da are not subject to subpart Db). Some of the requirements (e.g., the emission limits for particulate matter) in subpart D or Db were less stringent than those in subpart Da. These criteria applied to all steam generating units, not just cogeneration facilities.

We explained that we were distinguishing, in subpart Da, between “electric utility steam generating units” and “industrial boilers” because “there are significant differences between the economic structure of utilities and the industrial sector” (44 FR 33580, 33589; June 11, 1979). The one-third potential electrical output capacity/25 MWe sales criteria were used as a proxy for utility vs. industrial/commercial/institutional (*i.e.*, non-utility) ownership of the units. We believed that a unit involved in electricity sales small enough to be at or below the levels in the sales criteria was

owned by a company whose business was other than electric generation and transmission and/or distribution and so was in the industrial, not the utility, sector. We stated that, “[s]ince most industrial cogeneration units are expected to be less than 25 MWe electrical output capacity, few, if any, new industrial cogeneration units will be covered by these [subpart Da] standards. The standards do cover large electric utility cogeneration facilities because such units are fundamentally electric utility steam generating units.” *Id.*

Our approach in subpart Da reflected the fact that, since before the 1970’s and into the 1980’s, private or public entities in the business of electric generation and transmission and/or distribution (*i.e.*, utilities) produced almost all of the electricity generated or sold in the U.S. In addition, utilities were regulated monopolies with designated service areas. In contrast, non-utilities sold relatively small amounts of electricity, played an insignificant role in the business of electric generation and sales, and were not regulated monopolies. *See The Changing Structure of the Electric Power Industry: An Update*, Energy Information Administration, December 1996 at 5–7, 9, and 111.

A similar type of distinction between utility and non-utility units (using the one-third potential electrical output capacity/25 MWe sales criteria) continued under the CAA Amendments of 1990, in both title IV and section 112 of title I, but was applied only to cogeneration units. As noted above, a cogeneration unit is a unit that uses the same energy to produce both thermal energy (heat or steam) that is used for industrial, commercial, or heating or cooling purposes; and electricity. Title IV established the Acid Rain Program whose requirements apply to “utility units.” Section 402(17)(C) excludes a cogeneration unit from the definition of “utility unit” unless the unit “is constructed for the purpose of supplying, or commences construction after the date of enactment of [title IV] and supplies, more than one-third of its potential electric output capacity and more than 25 MWe electrical output to any utility power distribution system for sale.” 42 U.S.C. 7651a(17)(C). *See also* 40 CFR 72.6(b)(4). Non-cogeneration units involved in electricity sales could be utility units regardless of whether the non-cogeneration units met one-third potential electrical output capacity/25 MWe criteria.

Finally, section 112 of the CAA, which addresses hazardous air pollutants, excludes from the definition of “electric utility steam generating

unit” cogeneration units (but not non-cogeneration units) that meet the one-third potential electrical output capacity/25 MWe sales criteria (42 U.S.C. 7412(a)(8)). Under section 112, emission limits established by the Administrator for hazardous air pollutants listed in section 112(b) apply generally to stationary sources. However, such emission limits will apply to “electric utility steam generating units” only if the Administrator makes a specific finding after considering the results of a required study. In particular, section 112(n)(1)(A) requires the Administrator to study “the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units” of the listed pollutants “after imposition of the requirements of [the Clean Air Act]” (42 U.S.C. 7412(n)(1)(A)). That section further provides that the Administrator “shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study.” *Id.* Thus, in general, cogeneration units excluded from the definition of “electric utility steam generating unit” are subject by statute—without any study or finding by the Administrator—to the requirements for regulation of hazardous air pollutants under section 112, while cogeneration units included in that definition only become subject to section 112 based on the Administrator’s study and finding supporting regulation of units meeting that definition. (*See* 64 FR 63025, 63030; November 18, 1999) (Table 1, showing schedule for promulgation of standards for sources (*i.e.*, industrial boilers and institutional/commercial boilers) of hazardous air pollutants). *See also* 65 FR 79825, December 20, 2001 [Administrator’s finding under section 112(n)(1)(A)].

In summary, the above-described provisions vary as to both: (1) the application of the one-third potential electrical output capacity/25 MWe sales criteria, which apply to all units in some provisions and only to cogeneration units in other provisions; and (2) the consequences of a unit meeting the criteria, which results in the unit being subject to “more” regulation under some provisions and “less” or “later” regulation under other provisions.

2. What Is the NO_x SIP Call Definition of EGU?

In the NO_x SIP Call rulemaking, we continued the general approach, described above, of distinguishing

between units in the electric generation business (here, EGUs) and units in the industrial sector (here, non-EGUs). However, we adopted a different method of defining which units are in the electric generation business by changing the definition of EGU. We defined EGU by applying to all fossil fuel-fired units the methodology described in detail below and did not apply to cogeneration units the one-third potential electrical output/25 MWe sales criteria of the “cogeneration exclusion.” Under the methodology applied to all units, after determining the date on which a unit commenced operation (*e.g.*, commenced combustion of fuel), we determined whether the unit should be classified as an EGU or a non-EGU by applying the appropriate criteria depending on the commencement of operation date. Then we classified the unit as a large or small EGU or a large or small non-EGU.

Specifically, we noted in a December 24, 1998 supplemental action that the NO_x SIP Call used the following methodology⁷ for classifying all units (including cogeneration units) in the States subject to the NO_x SIP Call as EGUs or non-EGUs (63 FR 71223, December 24, 1998). We applied this methodology to cogeneration units and not the one-third potential electrical output capacity/25 MWe sales criteria of the “cogeneration exclusion.” *See id.*

(a)(i) For units that commenced operation before January 1, 1996, we classified as an EGU any unit that sells any electricity for sale under firm contract to the electric grid. In the December 24, 1998 supplemental action, we did not define the term “electricity for sale under firm contract to the electric grid.”⁸

(ii) For units that commenced operation before January 1, 1996, we classified as a non-EGU any unit that did not produce electricity for sale under firm contract to the grid.

⁷ The numbering of the steps in the methodology is added for the convenience of the reader.

⁸ For purposes of the January 18, 2000 Section 126 final rule, we defined “electricity for sale under firm contract to the electric grid” as where “the capacity involved is intended to be available at all times during the period covered by the guaranteed commitment to deliver, even under adverse conditions” (65 FR 2694 and 2731). As discussed below, we propose to adopt in today’s proposed rule the definition for the term provided in the January 18, 2000 Section 126 final rule. This definition was based on language from the *Glossary of Electric Utility Terms*, Edison Electric Institute, Publication No. 70–40 (definition of “firm” power). Generally, capacity “under firm contract to the electricity grid” is included on Energy Information Administration (EIA) form 860A (called EIA form 860 before 1998) or is reported as capacity projected for summer or winter peak periods on EIA form 411 (Item 2.1 or 2.2, line 10).

(iii) For units that commenced operation on or after January 1, 1996, we classified as an EGU any unit that serves a generator that produces any amount of electricity for sale, except as provided in paragraph (a)(iv) below.

(iv) For units that commenced operation on or after January 1, 1996, we classified as non-EGUs the following units: any unit not serving a generator that produces electricity for sale; or any unit serving a generator that has a nameplate capacity equal to or less than 25 MWe, that produces electricity for sale, and that has the potential to use 50 percent or less of the usable energy of the boiler or turbine. In the December 24, 1998 supplemental action, we did not define the term "usable energy."⁹

(b)(i) For a unit classified [under paragraph (a)(i) or (a)(iii) above] as an EGU, we then classified it as a small or large EGU. An EGU serving a generator with a nameplate capacity greater than 25 MWe is a large EGU. An EGU serving a generator with a nameplate capacity equal to or less than 25 MWe is a small EGU. In the December 24, 1998 supplemental action, we did not expressly define the term "nameplate capacity."¹⁰

(ii) For a unit classified [under paragraph (a)(ii) or (a)(iv) above] as a non-EGU, we then classified it as a small or large non-EGU. A non-EGU with a maximum design heat input greater than 250 mmBtu/hour is a large non-EGU. A non-EGU with a maximum design heat input equal to or less than 250 mmBtu/hour is a small non-EGU. *But see* 63 FR 71220, 71224, December 24, 1998 (explaining procedures used if data on boiler heat input capacity were

not available). In the December 24, 1998 supplemental action, we did not expressly define the term "maximum design heat input."¹¹

As stated previously, we defined the term "EGU" by applying to all units, including cogeneration units, the methodology in paragraphs (a)(i) and (a)(iii) above and used the methodology in paragraphs (a)(ii) and (a)(iv) above to define units as non-EGUs. We did not use, for cogeneration units, the one-third potential electrical output capacity/25 MWe sales criteria in the "cogeneration exclusion." It was the fact that we failed to apply this particular exclusion for cogenerators that petitioners challenged in *Michigan*.

3. What Revisions Are Being Made to the Definition of EGU in the NO_x SIP Call and the Section 126 Rule?

In today's rulemaking, we are addressing three aspects of the EGU definition. First, for purposes of the NO_x SIP Call and the Section 126 Rule, we are proposing not to apply to cogeneration units the one-third potential electrical output/25 MWe sales criteria of the "cogeneration exclusion" in classifying the units as EGUs or non-EGUs. Under today's proposal, we would apply to all units, including cogeneration units, the basic approach used in the NO_x SIP Call Rule [described in the December 24, 1998 supplemental action (63 FR 71233)] and the approach in the Section 126 Rule for such classification. We are proposing to change the categorization of units under the NO_x SIP Call definition of EGU (set forth in section II.A.2 above) as units commencing operation before January 1, 1996 or units commencing operation on or after January 1, 1996. Under today's proposal, we would instead categorize units as units commencing operation before January 1, 1997, units commencing operation on or after January 1, 1997 and before January 1, 1999, or units commencing operation on or after January 1, 1999 for purposes of classifying units as EGUs or non-EGUs. These new categories based on commencement of unit operation are the same as the categories adopted in the January 18, 2000 Section 126 final rule and, under today's proposal, units are classified the same way as in the

January 18, 2000 Section 126 final rule. We are also proposing to adopt the term "potential electrical output capacity" and the definitions of the terms "electricity for sale under firm contract to the electric grid," "potential electrical output capacity," "nameplate capacity," and "maximum design heat input" used in the January 18, 2000 Section 126 Rule. As noted above, these changes to conform to the January 18, 2000 Section 126 Rule do not affect the budgets that were established under the final NO_x SIP Call and the Technical Amendments.

The only aspects of the EGU definition that we are addressing in today's rulemaking are: the use, for cogeneration units, of the generally applicable methodology for EGU/non-EGU classification rather than the "cogeneration exclusion" criteria; the changes in categories of units based on commencement of operation date; and the adoption of a new term and new definitions of terms. The changes to aspects of the EGU definition result in corresponding changes to aspects of the non-EGU definition. These aspects of the EGU and non-EGU definitions are discussed in detail below and are the only issues related to EGU and non-EGU definition on which we are requesting comment today. We are not reconsidering, and are not taking comment on, any other aspects of the EGU or non-EGU definitions.

a. Use of the same EGU/non-EGU classification methodology for cogeneration units as for all other units

We believe that it is appropriate to apply to cogeneration units the same methodology for EGU/non-EGU classification as applied to all other units and not to apply the one-third electrical potential output capacity/25 MWe sales criteria in order to classify cogeneration units as EGUs or non-EGUs. This is appropriate because the reasons for distinguishing between utilities and non-utilities no longer exist in light of the dramatic changes that have occurred in the electric power industry since 1990 due to the emergence of competitive markets for electricity generation in which non-utility generators compete to an increasingly significant extent with utilities. As a result, the historical difference between utilities and non-utilities is increasingly blurred and irrelevant in determining what units are involved in, and should be classified as, producing and selling electricity. In addition, there are no physical, operational, or technological differences that warrant use of a different EGU/non-EGU classification methodology for cogeneration units than for other units.

⁹ For purposes of the January 18, 2000 Section 126 final rule, we used the more familiar term "potential electrical output capacity," rather than the term "usable energy." We defined "potential electrical output" using the long-standing definition of the latter term as "33 percent of a unit's maximum design heat input" (65 FR 2694 and 2731). As discussed below, we propose to adopt in today's proposed rule the same term and definition used in the January 18, 2000 Section 126 final rule. "Potential electrical output capacity" is used, and defined in this way, in part 72 of the Acid Rain Program regulations (40 CFR 72.2 and 40 CFR part 72, appendix D) and in the new source performance standards (40 CFR 60.41a).

¹⁰ In the part 96 model rule in the NO_x SIP Call (63 FR 57356, 57514-38) and subsequently for purposes of the January 18, 2000 Section 126 final rule (65 FR 2729 and 2731), we adopted the long-standing definition of "nameplate capacity" as "the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards." As discussed below, we propose to adopt in today's proposed rule the same definition used in the January 18, 2000 Section 126 final rule. The term is defined in this way in part 72 of the Acid Rain Program regulations (40 CFR 72.2).

¹¹ In the part 96 model rule in the NO_x SIP Call (63 FR 57516) and subsequently for purposes of the January 18, 2000 Section 126 final rule (65 FR 2729); we defined "maximum design heat input" as "the ability of a unit to combust a stated maximum amount of fuel per hour (in mmBtu/hr) on a steady state basis, as determined by the physical design and physical characteristics of the unit." As discussed below, we propose to adopt in today's proposed rule the same definition used in the January 18, 2000 Section 126 final rule.

i. Distinction between units in the electric generation business and units in the industrial sector

As discussed above, distinguishing between units producing electricity for sale and units producing electricity for internal use or producing steam is a long-standing approach in setting emission limits. In the NO_x SIP Call, the Section 126 Rule, and today's proposal, we continue to take this general approach by setting different emission limits for units producing electricity for sale (EGUs) and units that do not produce electricity for sale (non-EGUs).

We are retaining this general approach for several reasons. First, this is a long-standing approach, and few, if any, commenters in the NO_x SIP Call and Section 126 rulemakings supported abandoning the distinction between units in the electric generation business and units in the industrial sector. Second, after organizing the units into these two categories, we found that there was some difference in the average compliance costs of the two groups. See 65 FR 2677 (estimating average large EGU control costs as \$1,432 per ton in 1990 dollars in 1997 and average large non-EGU costs as \$1,589 per ton). Third, this approach tends to result in units that directly compete in the electric generation business having to meet the same emission limit, and that result seems reasonable.

While we are using in today's proposal the long-standing approach of distinguishing between units in the electric generation business and units in the industrial sector, we are proposing to use the revised definition of EGU (i.e., the EGU definition in the Section 126 Rule) in order to reflect recent changes in the electric generation business and the types of units that currently participate in that business. As discussed below, that business is no longer confined essentially to utilities, and non-utilities are playing an increasingly significant role. We are proposing to define EGU in a way that includes both utilities and non-utilities that are in that business and to not apply criteria to cogeneration units (i.e., the one third potential electrical output capacity/25 MWe sales criteria) that tend to exclude non-utilities from the EGU category.

ii. Effect of electricity competition and electric power restructuring on distinction between utilities and non-utilities

The development of competitive electricity markets is ongoing:

Propelled by events of the recent past, the electric power industry is currently in the midst of changing from a vertically integrated and regulated monopoly to a functionally

unbundled industry with a competitive market for power generation. Advances in power generation technology, perceived inefficiencies in the industry, large variations in regional electricity prices, and the trend to competitive markets in other regulated industries have all contributed to the transition. Industry changes brought on by this movement are ongoing, and the industry will remain in a transitional state for the next few years or more. *The Changing Structure of the Electric Power Industry: Selected Issues, 1998*, Energy Information Administration, July 1998 at ix.

See also *The Changing Structure of the Electric Power Industry: An Update* 35–38 (discussing the factors underlying the ongoing development of competitive electricity markets and restructuring of the electric power industry). Because of the ongoing development of electricity markets and electric power industry restructuring, competition in electric generation is expected to become more pervasive in the future. *Electric Power Annual 1998*, Vol. II, Energy Information Administration, December 1998 at 1 and 4.

With increased competition and industry restructuring, both utilities and non-utilities are generating and selling significant amounts of electricity, a trend that is likely to increase in the future. In particular, the increasing role of non-utilities is reflected in electric power data for the period 1992–1998 indicating that:

(1) The number of investor-owned utilities has decreased by nearly 8 percent, while the number of non-utilities has increased by over 9 percent.

(2) Non-utilities are expanding and buying utility-divested generation assets, causing their net generation to increase by 42 percent and their nameplate capacity to increase by 72 percent from 1992 to 1998. Non-utility capacity and generation will increase even more as they acquire additional utility-divested generation assets over the next few years.

(3) The non-utility share of net generation has risen from 9 percent (286 million megawatt hours) in 1992 to 11 percent (406 million megawatt hours) in 1998.

(4) Utilities have historically dominated the addition of new capacity but additions to capacity by utilities are decreasing while additions by non-utilities are increasing. In the period 1985–1991, utilities were responsible for 62 percent of the industry's additions to capacity, but that figure dropped to 48 percent in the period 1992–1998. *The Changing Structure of the Electric Power Industry 1999: Mergers and Other Corporate Combinations*, Energy Information Administration, December 1999 at x.

In fact, in 1998 alone, non-utilities accounted for about 11 percent of net generation and 81 percent of capacity additions. *Id.* at 8 (Figure 1); see also *id.* at 9–10 [Figure 2 (graph showing non-utility megawatt additions to capacity far exceeding utility additions) and Figure 3 (graph showing non-utility annual growth rate of additions to capacity far exceeding utility annual growth rate of additions)]. Cogeneration units currently account for about 55 percent of existing non-utility capacity, and there is a large potential for more cogeneration, e.g., in both the refining and paper and pulp industries. *Electric Power Annual 1998*, Vol. II at 10.

Along with increases in non-utility generation and capacity, non-utility sales of electricity to utilities and to end-users have increased during 1994–1998, even though the vast majority of electricity sales are still made by utilities. *Id.* at 87 [Table 51 (showing sales to utilities and end-users)]. With increasing competition and restructuring, any unit serving a generator—regardless of whether the unit owner is a utility or a non-utility (e.g., an independent power producer or an industrial company)—can produce and sell electricity. As a result, “new entrants, generating and selling power, have made inroads in an industry previously closed to outside participants. Because of this array of changes, the industry is now more commonly called the *electric power industry* rather than the erstwhile *electric utility industry*.” *The Changing Structure of the Electric Power Industry: Selected Issues, 1998* at 5. See also *The Changing Structure of the Electric Power Industry 2000: An Update*, Energy Information Administration, October 2000 at 1 and Supporting Statement for the Electric Power Surveys, OMB Number 1905–0129, Energy Information Administration, September 2001 at 7 (discussing the continued trend of increased participation of non-utilities in electric power industry). Particularly, in light of increasing non-utility capacity additions and sales and the likelihood of continued growth in non-utility participation in competitive electricity markets, distinctions based on ownership of units are becoming less important. These distinctions are increasingly irrelevant in determining whether units are involved in, and should be classified as, producing and selling electricity.

The Energy Policy Act of 1992 encouraged these types of changes in the electric power industry by recognizing a new category of non-utility generators under the Public Utility Holding Companies Act, i.e.,

“exempt wholesale generators,” which lack transmission facilities and are exempt from the corporate and geographic restrictions imposed by the Public Utility Holding Companies Act. Exempt wholesale generators may generally charge market-based rates but cannot require utilities to purchase the electricity. *The Changing Structure of the Electric Power Industry: An Update* at 28–29. The Energy Policy Act also amended section 211 of the Federal Power Act to broaden the ability of non-utility generators to request that the Federal Energy Regulatory Commission (FERC) order utilities to provide transmission services for electricity produced and sold by non-utility generators, e.g., transmission access to non-contiguous utilities. *The Changing Structure of the Electric Power Industry: Selected Issues, 1998* at 1. In response to the Energy Policy Act, FERC has encouraged competition for electricity at the wholesale level (i.e., in sales of electricity for resale) by removing obstacles to such competition. For example, starting in 1996, FERC issued orders [e.g., Order No. 888, 61 FR 21540 (1996), and Order No. 889, 61 FR 21737 (1996)] requiring utilities to provide open access for electricity generators to transmission lines, file nondiscriminatory open-access tariffs applicable to all parties seeking transmission service, and participate in the Open Access Same-Time Information System (OASIS). *Id.*; see also *The Changing Structure of the Electric Power Industry: An Update* at 57–63 (describing FERC Order Nos. 888 and 889). The FERC is continuing to take actions aimed at ensuring open transmission access. See, e.g., Order No. 2000, 65 FR 809 (2000) (requiring utilities to submit proposals for participation in a regional transmission organization meeting specified requirements aimed at removing impediments to electricity competition or to submit any plans to work toward such participation). In short, future Federal actions promoting wholesale competition and deregulation of electricity generation will likely continue the process of removing the distinction between utilities and non-utilities.

In some States, State actions may also continue this process. Many States have adopted legislation or approved plans for, or have begun to consider providing, access by end-users to competitive electricity markets. A number of States have adopted pilot programs to initiate and evaluate the feasibility of competition at the retail level (i.e., in sales of electricity to end-

users). See *Electric Power Annual 1998*, Vol II at 4; and *The Changing Structure of the Electric Power Industry: Selected Issues, 1998* at xi and 93. Consequently, “[o]ne of the expectations for the future is that end users of electricity will be allowed to participate in a unified wholesale/retail market.” *Id.* at 3. See also *The Changing Structure of the Electric Power Industry: An Update* at 67–68 (describing State actions).

Other Federal agencies that deal with the power industry have realized that the historical distinction between utilities and non-utilities is no longer meaningful. In particular, the EIA is in the process of revising its reporting requirements so that there will be virtually no distinction between reporting by utility generators and by non-utility generators. Historically, EIA required utilities to report electricity generation, fuel use, and other information on different forms than non-utilities and treated the utility information as public information and the non-utility information as confidential business information. Recently, EIA began an effort to reduce, and virtually eliminate, the differences between utility and non-utility forms and to make most information available to the public. See *Electric Power Surveys Supporting Statement*, EIA, November 1998 at 6, 26, 28–9, 47, 50 and *Supporting Statement for the Electric Power Surveys*, OMB Number 1905–0129 at 16–17, 28, and 30 (explaining that utilities and non-utilities will be subject to the same data collection and disclosure policies).

In summary, the increasingly competitive nature of the electric power industry and the significant and increasing participation of non-utilities in competitive electricity markets support similar treatment of utilities and non-utilities. We believe that, with these changes in the electric power industry and electricity markets, there is no longer a factual basis for excluding cogeneration units from treatment as EGUs by using the one-third potential electrical output capacity/25 MWe sales criteria.

iii. Differences between the design and operation of cogenerating units and non-cogenerating units

There appear to be no physical, operational, or technological differences between cogeneration units producing electricity for sale and non-cogeneration units producing electricity for sale that would prevent cogeneration units classified as EGUs from achieving average NO_x reductions, and at average costs, similar to those achieved by non-cogeneration units. Similarly, there appear to be no such differences that

would justify using the one-third potential electrical output capacity/25 MWe sales criteria for classifying cogeneration units as EGUs or non-EGUs, rather than the classification methodology used for all other units.

Cogeneration units operate in two basic configurations.¹² The first is a boiler followed by a steam turbine-generator. In this configuration, steam is generated by a boiler. The steam is first used to power a steam turbine-generator, while the remaining steam is used for an industrial application or for heating and cooling. The boiler that generates the steam used in this manner can be designed and operated in essentially the same way as a boiler that generates steam used only to power a steam turbine-generator. Therefore, any controls that could be used on a boiler used to produce only electricity could also be used on a boiler used for cogeneration. In each case, the boiler emits the same amount of NO_x.

The second typical configuration for a cogeneration unit is a gas-fired combined cycle system. Combined cycle system plant refers to a system composed of a gas turbine, heat recovery steam generator, and a steam turbine. Combined cycle units that cogenerate can be designed and operated in essentially the same way as combined cycle units that generate only electricity. The waste heat from the gas turbine serves as the heat input to the heat recovery steam generator which is used to power the steam turbine. Both the gas turbine and the steam turbine are connected to generators to produce electricity. The gas turbine-generator and the heat recovery steam generator portions can be adapted to supply process steam as well as electrical power. These units typically emit at NO_x levels well below 0.15 lbs/mmBtu even without the use of post-combustion controls. Furthermore, selective catalytic reduction (SCR) has been used extensively on combined cycle units that are used for cogeneration and those used for generation of electricity only and results in NO_x emissions at levels well below 0.15 lb/mmBtu. (See *GE Combined-*

¹² These two configurations are for cogeneration units in topping cycle cogeneration facilities, where energy is used sequentially first to produce electricity and then to produce thermal energy for process use or heating and cooling. In bottoming cycle cogeneration facilities, energy is used sequentially first to produce thermal energy and then to produce electricity. (See *Cogeneration Applications Considerations*, R.W. Fisk and R.L. VanHousen, GE Power Systems, 1996, Docket # A-96–56, item # XII-L–04 at 1–2.) The cogeneration units subject to the NO_x SIP Call and the Section 126 Rule are boilers, turbines, or combined cycle systems and so are likely to operate in topping cycle cogeneration facilities.

Cycle Product Line and Performance, GE Power Systems, October 2000, docket # A-96-56, item XII-L-04 at 10-11.)

Both cogeneration configurations identified above are used at utility and non-utility facilities that produce electricity for sale. The steam generated at these facilities is divided between powering a steam turbine and serving process uses or heating and cooling. The cogeneration units at these facilities are almost identical in design, except that a non-utility facility may use more of the steam for process uses or heating and cooling, rather than electricity generation.

Further, in comparison to a non-cogeneration system that generates electricity for sale, either type of cogeneration system looks essentially the same except for the addition of valves and piping to send the steam for process use or heating and cooling. Under both the cogeneration and non-cogeneration systems that generate electricity for sale, all the flue gas (containing the NO_x emissions) exiting the combustion process can be directed through the pollution control devices and then through a stack. Because the cogeneration and non-cogeneration systems are of essentially the same design and the flue gas exits the systems in the same manner, the control of NO_x emissions can be achieved in the same manner. Any post-combustion pollution control device used for NO_x control in either system is located in the same place and operated in the same manner. [For examples and discussion of how post-combustion controls apply to cogeneration units, see docket # A-96-56, item # XII-L-02; XII-L-03; and XII-L-05 at 10-11 and 13 (Figure 15).]

More specifically, as discussed in detail in the technical support document (Lack of Relevant Physical or Technological Differences Between Cogeneration Units and Utility Electricity Generating Units, September 25, 2000, docket # A-96-56, item # XII-K-47), post-combustion NO_x control technologies, *i.e.*, selective non-catalytic reduction (SNCR) and SCR, are available for use on both non-cogeneration and cogeneration units producing electricity for sale. The technical support document and the other documents cited above support the following conclusions:

(1) Selective non-catalytic reduction is a fully commercial technology that uses reagent injected into the boiler above the combustion zone to reduce NO_x to elemental nitrogen and water. Because the NO_x reduction takes place above the combustion zone, boiler type has an insignificant impact on the

ability to use SNCR. Selective non-catalytic reduction has been demonstrated on a wide range of boiler types and sizes (including cogeneration units) and on a wide range of fuels (including bio-mass, wood, or combinations of fuels such as bark, paper sludge, and fiber waste). Selective non-catalytic reduction systems have been used at a wide range of temperatures (*e.g.*, from 1250 degrees F to 2600 degrees F) and have been designed to handle a wide range of load variation (*e.g.*, 33 percent to 100 percent of a unit's maximum continuous rating).

(2) Selective catalytic reduction is a fully commercial technology that uses both ammonia injected after the flue gases exit the boiler or the combustion turbine and catalyst in a reactor to reduce NO_x to elemental nitrogen and water. Because the NO_x reduction takes place in a reactor outside the combustion and heat transfer zones, boiler type has an insignificant impact on the ability to use SCR. Selective catalytic reduction has been demonstrated on a wide range of boiler types and sizes and on combined cycle systems. The SCR systems have been used at a wide range of temperatures (*e.g.*, 450 degrees F to 1100 degrees F) and have been designed to handle a wide range of load variation.

Therefore, the same, proven post-combustion NO_x control technologies (SNCR and SCR) are applicable to non-cogeneration units producing electricity for sale and to cogeneration units producing electricity for sale. Because no relevant physical, operational, or technological differences between these groups of units exist and because the post-combustion NO_x control technologies are located in the same place and operated in the same manner, we maintain that there is no significant difference in the average cost of controlling NO_x emissions from these units.

For example, in our cost analysis of EGUs, we used an average capital cost of \$69.70 to \$71.80 per kilowatt for SCR on a 200 MWe coal-fired EGU. See *Analyzing Electric Power Generation Under the CAAA*, U.S. EPA, March 1998, docket # A-96-56, item # V-C-03 at A5-7 (Table A5-5). The record also shows that SCR on a new coal-fired cogeneration unit has a capital cost of \$58 per kilowatt. See *Status Report on NO_x Control Technologies and Cost Effectiveness for Utility Boilers*, NESCAUM and MARAMA, June 1998, docket # A-96-56, item # VI-B-05 at 151-53. EPA maintains that this cost is

reasonably consistent with the average cost that EPA determined for all EGUs.¹³

Therefore, we conclude that the cost estimates we made for NO_x control technology retrofits apply to both cogeneration and non-cogeneration units producing electricity for sale. In today's rulemaking, we request comment on, and specific information supporting or contradicting, our conclusions that there are no relevant physical, operational, or technological differences and no significant difference in average control retrofit cost for cogeneration versus non-cogeneration units producing electricity for sale. Any cost information that is provided must have sufficient detail and support to allow evaluation as to whether the unit involved represents a typical unit.

4. What Methodology Are We Using To Classify EGU/Non-EGU Cogeneration Units?

For the reasons set forth above in section II.A.3 of today's preamble, we believe that it is appropriate to use the same methodology to classify all units, including cogeneration units, as EGUs or non-EGUs and generally to classify as EGUs all units that generate electricity for sale. This is appropriate regardless of whether the owners or operators of the units generating electricity for sale are utilities or non-utilities. Since the one-third potential electrical output capacity/25 MWe sales criteria of the "cogeneration exclusion" are essentially proxies for distinguishing between utility and non-utility ownership of cogeneration units, those criteria are no longer appropriate for distinguishing between EGUs and non-EGUs and classifying cogeneration units as EGUs or non-EGUs. In addition, as also identified in section II.A.3 above, we believe there are no relevant physical, operational, or technological differences between cogeneration and non-cogeneration units producing electricity for sale.

However, in order to provide a transition for units commencing operation before the development of competitive electricity markets or as these markets were emerging, we propose to apply to cogeneration units commencing operation before January 1, 1999 a transitional criterion for EGU/non-EGU classification. This is the same criterion that was used in the September

¹³ We also note that the dollar per ton cost for this installation is \$2,800 to \$3,000 per ton of NO_x removed. This is higher than the average cost for EGUs because the unit started at a low NO_x rate (0.16 lb/mmBtu) and controls down to 0.07-0.08 lb/mmBtu, not because the unit is a cogenerator. If the unit only generated electricity and had the same starting NO_x rate, the cost would be the same.

24, 1998 NO_x SIP Call Rule.

Specifically, for cogeneration units commencing operation before January 1, 1999, we will classify as EGUs units that generate electricity for sale under firm contract to the grid. Cogeneration units that generate electricity for sale, but not for sale under a firm contract to the grid (i.e., not under a guaranteed commitment to provide the electricity), will be classified as non-EGUs. For cogeneration units commencing operation on or after January 1, 1999, we will generally classify as EGUs all cogeneration units that generate electricity for sale, with the limited exception discussed below. As also discussed below, this is the same approach that is used for classifying units that are not cogeneration units.

We believe that the firm-contract criterion provides a reasonable transitional means of making the EGU/non-EGU classification for cogeneration units. As discussed above, with electricity competition and power industry restructuring, the distinction between utility and non-utility ownership, and thus the one-third potential electrical output capacity/25 MWe sales criteria, no longer provides a relevant means of distinguishing between EGUs and non-EGUs. Further, application of the one-third potential electrical output capacity/25 MWe sales criteria requires historical data for each cogeneration unit on the unit's electrical output capacity and electrical sales, all of which data has been treated by cogeneration unit owners and EIA as confidential business information. We do not have, and the petitioner and commenters in the NO_x SIP Call and Section 126 rulemakings have never provided, complete information on the identification of all units claiming to be cogeneration units and on such units' historical capacity and actual generation and sales.

In contrast, the firm-contract criterion provides a reasonable way of identifying which cogeneration units have been significantly enough involved in the business of generating electricity for sale that their owners have provided guaranteed commitments to provide electricity from the units to one or more customers. Moreover, the historical information necessary to apply the firm-contract criterion to cogeneration units (and other units) is already available to us. As discussed above, capacity involved in sales of electricity "under firm contract to the electricity grid" has been generally included on EIA form 860A (called EIA form 860 before 1998) or reported to EIA as capacity projected for summer or winter peak periods on EIA form 411 (Item 2.1 or 2.2, line 10).

The historical information from these forms is publicly available.

Application of the firm-contract criterion results in classifying, as EGUs, cogeneration units that commenced operation before January 1, 1999 and whose owners have committed to providing electricity for sale from the units. This criterion reflects the fact that the amount or percentage of the sales (which is a proxy for utility vs. non-utility ownership) is no longer relevant for EGU/non-EGU classification. The criterion is also practical for us to apply. For cogeneration units commencing operation on or after January 1, 1999, we will generally classify as EGUs all units generating electricity for sale, regardless of whether the sales are sales under firm contract to the grid. The category of cogeneration units recently commencing operation is relatively small. In the future, EIA will likely be treating virtually all new data for both utilities and non-utilities as public information, even though EIA will continue to keep historical non-utility data confidential. We, therefore, believe it is practical for us or States to obtain electricity sales information for such cogeneration units.

a. Difference in treatment of cogeneration units that produce electricity for sale and those that produce electricity for internal use only.

In the May 15, 2001 decision in the Section 126 case, the D.C. Circuit expressed concern that, under the Section 126 Rule, a cogenerator that produces electricity for sale may be treated as an EGU, a cogenerator that produces electricity for internal use only may be treated as a non-EGU, and thus two units that are "identical physically" may be subject to different emission reduction requirements. *Appalachian Power*, 249 F.3d at 1062. EPA notes that this issue is not unique to cogeneration units and is inherent in any regulatory program that distinguishes between units in the electric generation business and units that are in the industrial sector and sets different emission limits for the two groups.¹⁴ As previously discussed, this is a long-standing approach that, for the reasons presented above, EPA is continuing to use in the NO_x SIP Call and Section 126 Rule. EPA recognizes that this may result in units that are

physically identical being regulated differently simply based on whether or not electricity produced by the unit is sold. However, before abandoning the long-standing approach of distinguishing between units on this basis—an action that few, if any, commenters in the NO_x SIP Call and Section 126 rulemakings have advocated—EPA believes that it is prudent to gain experience in operating the trading program under the NO_x SIP Call and Section 126 Rule. EPA proposes to take a reasonable first step to take account of electric restructuring and deregulation by revising the definition of EGU to focus on production of electricity for sale, regardless of whether a unit is a utility or a non-utility. After EPA has gained experience with the NO_x SIP Call and Section 126 trading program, EPA intends to consider whether to take the additional step of treating the same all units that produce electricity, whether for sale or internal use.

b. Minor revisions to NO_x SIP Call definition of EGU.

i. As noted above, we propose to change the categorization of units used in the NO_x SIP Call from units commencing operation before January 1, 1996 or units commencing operation on or after January 1, 1996 to units commencing operation before January 1, 1997, units commencing operation on or after January 1, 1997 and before January 1, 1999, or units commencing operation on or after January 1, 1999. We propose to use these new categories in applying the firm-contract criterion for EGU/non-EGU classification of all units, including cogeneration units. This is a modification of the methodology that has been used in the NO_x SIP Call. This modification is set forth above in section II.A of today's preamble. Under today's action, for units commencing operation before January 1, 1997, we propose to use the same period (i.e., 1995–1996) to determine the EGU/non-EGU classification of the units as we used to calculate the EGU portion of each State's budget under the NO_x SIP Call. See 63 FR 57407, October 27, 1998. Whether such a unit had electricity sales under firm contract to the grid in 1995–1996 will be used to determine the unit's EGU/non-EGU classification.

For units commencing operation on or after January 1, 1997 and before January 1, 1999, we propose to use 1997–1998 to determine the EGU/non-EGU classification of units. Whether such a unit had electricity sales under firm contract to the grid in 1997–1998 determines the unit's EGU/non-EGU classification.

¹⁴ In fact, use of the one-third potential electrical output capacity/25 MWe sales criteria for cogenerators would distinguish between EGU cogenerators and non-EGU cogenerators based on the cogenerator's amount of electricity sales and would raise the same issue. Under these criteria, two physically identical cogenerators could have different emission limits simply because one produces and sells the requisite amount of electricity and the other produces electricity for internal use and does not sell the requisite amount.

The firm-contract criterion will not apply to units commencing operation on or after January 1, 1999. The classification of units commencing operation on or after January 1, 1999 will be based on whether the unit produces any electricity for sale. In general, any unit that produces electricity for sale will be an EGU, except that the non-EGU classification will apply to a unit serving a generator that has a nameplate capacity equal to or less than 25 MWe, from which any electricity is sold, and that has the potential (determined based on nameplate capacity) to use 50 percent or less of the potential electrical output capacity of the unit.

For several reasons, we are establishing January 1, 1999 as the cutoff date for applying EGU and non-EGU definitions based on electricity sales under firm contract to the grid and the start date for applying EGU and non-EGU definitions based on any electricity sales. First, information is available to us on firm-contract electricity sales on a calendar year basis only. Consequently, the classification of units based on whether the generators they serve are involved in firm-contract electricity sales must be made on a calendar year basis, and any cutoff must start on January 1. Second, use of the January 1, 1999 cutoff date for the NO_x SIP Call is consistent with the use of that same cutoff date in the Section 126 Rule. Third, the January 1, 1999 cutoff date will limit the ability of owners or operators of new units that might otherwise qualify as large non-EGUs from obtaining small EGU classification for the units and thereby avoiding all emission reduction requirements. For example, since the cutoff date and the relevant period for determining firm-contract electricity sales are past, the owner of a large new unit that would otherwise not serve a generator will not be able to obtain small EGU classification simply by adding a very small generator (e.g., 1 MWe) to the unit and selling a small amount of electricity under firm contract to the grid.

In the interests of reducing the complexity of the regulations aimed at reducing interstate transport of ozone, we believe that it is desirable to have consistent EGU definitions in the NO_x SIP Call and Section 126 programs. With the above-described changes in the categories of units based on commencement-of-operation date, the EGU definition in the NO_x SIP Call will be the same as the EGU definition reflected in the applicability provisions (i.e., § 97.8(a)) of the Section 126 program.

ii. As noted above, we also propose to use in the NO_x SIP Call the same term “potential electrical output capacity,” and the same definitions of the terms “electricity for sale under firm contract to the electric grid,” “potential electrical output capacity,” “nameplate capacity,” and “maximum design heat input,” adopted in the January 18, 2000 Section 126 final rule and used in the EGU definition in the regulations (i.e., part 97) implementing the Section 126 program. The basis for these terms and definitions is set forth above.

5. What Is the Effect on Cogeneration Unit Classification of Applying the Same Methodology as Used for Other Units, Rather Than the One-Third Potential Electrical Output Capacity/25 MWe Sales Criteria?

The petitioner in *Michigan* who successfully challenged the lack of application of the one-third potential electrical output capacity/25 MWe sales criteria to cogeneration units claimed that the failure to apply such criteria would result in “sweeping previously unaffected non-EGUs into the EGU category.” Brief of Petitioner CIBO at 4 (submitted in *Michigan*). The petitioner further suggested that, without the application of these criteria, “any sale of electricity will make a non-EGU a more stringently regulated EGU.” Reply Brief of Petitioner CIBO at 1 (submitted in *Michigan*).

As discussed above, large EGUs and large non-EGUs are included in the determination of the amount of a State’s significant contribution to nonattainment in another State. No reductions by small EGUs or small non-EGUs are included in that determination.

Neither the petitioner nor any party that commented in the NO_x SIP Call or the Section 126 rulemakings identified any specific, existing cogeneration units that, *without* the application of the one-third potential electrical output capacity/25 MWe sales criteria, would be classified as large EGUs but that, *with* the application of such criteria, would be classified as either large or small non-EGUs. In fact, one commenter supporting the one-third potential electrical output capacity/25 MWe sales criteria stated that applying the criteria to the NO_x SIP Call “would not alter the Agency’s baseline emissions inventory, since cogeneration units were, for the most part, classified correctly as non-EGUs in EPA’s current data base.” See Responses to the 2007 Baseline Sub-Inventory Information and Significant Comments for the Final NO_x SIP Call (63 FR 57356, October 27, 1998), May 1999 at 9. This comment and the failure

of commenters to identify any specific cogeneration units affected by today’s proposed change suggest that use of the one-third potential electrical output capacity/25 MWe sales criteria, instead of the classification proposed in today’s rule, would shift few, if any, existing cogeneration units from being large EGUs to being large or small non-EGUs.

The EGU/non-EGU classification methodology that we propose to use for most existing cogeneration units is based on whether, during a specified period, the unit served a generator that sold electricity under firm contract to the grid. The specified period for units commencing operation before January 1, 1997 is 1995–1996, and the specified period for units commencing operation on or after January 1, 1997 and before January 1, 1999 is 1997–1998. Since the EGU/non-EGU classification is based on sales under firm contract and not simply sales, the methodology proposed for cogeneration units does not classify as EGUs all existing cogeneration units that generate electricity for sale. We believe that existing cogeneration units that are not significantly involved in the business of generating electricity for sale will be classified under the proposed methodology as non-EGUs, rather than EGUs, because the owners of such units will not have committed to providing electricity for sale from the units.

We request commenters to identify by name, location, and plant and point identification any cogeneration unit that commenters believe would be classified as an EGU under today’s proposed methodology and would be classified as a non-EGU if the one-third potential electrical output capacity/25 MWe sales criteria were applied instead of the proposed methodology. Further, we request that commenters also state whether the unit is large or small under each such classification approach and provide information about each such unit, supporting any claimed EGU, non-EGU, large, and small classifications of the unit.

While we believe that today’s proposed methodology will classify as non-EGUs existing cogeneration units that are not significantly involved in the business of generating electricity for sale, we request information about whether adopting the one-third potential electrical output capacity/25 MWe sales criteria, instead of the proposed methodology, would change the classification for some cogeneration units in a way that would make them potentially subject to more stringent emission reduction requirements than under the proposed methodology. For example, an existing cogeneration unit classified as a large non-EGU under

today's proposed methodology may become a large EGU if the unit did not sell electricity under firm contract to the grid, but sold more than one-third of its potential electrical output capacity and serves a generator with a nameplate capacity larger than 25 MWe. By further example, an existing cogeneration unit classified as a small EGU under today's proposed methodology may become a large non-EGU if the unit sold electricity under firm contract to the grid, but sold less than one-third of its potential electrical output capacity and has a maximum design heat input of greater than 250 mmBtu/hr.

We request commenters to identify by name, location, and plant and point identification any cogeneration unit that commenters believe would be classified as a large or small non-EGU under today's proposed methodology and that would be classified as a large EGU if the one-third potential electrical output capacity/25 MWe sales criteria were applied instead of the proposed methodology. We also request commenters to identify by name, location, and plant and point identification any cogeneration unit that the commenters believe would be classified as a small EGU under today's proposed methodology and that would be classified as a large non-EGU if the one-third potential electrical output capacity/25 MWe sales criteria were applied instead of the proposed methodology. In addition, we request that commenters also provide information about each identified unit supporting any claimed EGU, non-EGU, large, or small classifications of the unit.

Sources that identify themselves as cogenerators or small cogenerators (one-third potential electrical output capacity/25 MWe sales criteria) should submit the following information to assist us in confirming their identification:

(1) A description of the facility to demonstrate that the facility meets the definition of a "cogeneration unit" under 40 CFR 72.2.

(2) Data describing the annual electricity sales from the unit for every year from the unit's commencement of operation through the present. To provide this information, sources should submit the same form as they used to report the information to the EIA, or if they have not reported the information to EIA, provide the same information on annual electricity sales as was or would have been required to be reported to EIA.

(3) Information concerning the unit's maximum design heat input.

Under today's proposed methodology, the EGU definition based generally on

whether the unit has any electricity sales will apply to units that commence operation on or after January 1, 1999. Thus, in general, any new units that serve generators involved in generating electricity for sale will be EGUs. This reflects the restructuring of the electric power industry under which any unit serving a generator (regardless of whether the owner is a utility or a non-utility) can be involved in selling electricity and non-utility units are involved in an increasing portion of the electricity market. Since we are classifying as EGUs cogeneration units that commence operation on or after January 1, 1999 and sell any electricity, this may result in classification as EGUs of some cogeneration units that recently commenced operation or commence operation in the future and that would be non-EGUs under the one-third potential electrical output capacity/25 MWe sales criteria. As discussed above, we maintain that this result is reasonable in light of today's changing electricity markets and power industry restructuring.

B. What Control Level Is Being Proposed for Stationary Reciprocating Internal Combustion Engines (IC Engines)?

1. What Control Level Was Used in the NO_x SIP Call?

In developing budgets for the NO_x SIP Call proposal (62 FR 60318, November 7, 1997), we assumed a 70 percent reduction at large sources and reasonably available control technology (RACT) at medium-sized sources (the OTAG recommendation) for about 20 categories of non-EGU stationary sources. These sources included, among others, industrial boilers and turbines, cement kilns, glass manufacturing, IC engines, sand and gravel operations, and steel manufacturing. Once State NO_x budget components were established for a particular option, control strategies were developed for the least-cost solution to attain these budgets. The least-cost solution was achieved by assuming controls on over 9,000 NO_x sources of various sizes and categories at an average cost effectiveness of \$1,650/ton; two thirds of the NO_x emissions reductions were from only two source categories: non-EGU boilers and IC engines.

In the final NO_x SIP Call Rule, we looked at applying a size cut-off for small sources and considered various control levels for each of the categories of large non-EGU stationary sources. We determined that highly cost-effective controls for non-EGUs were appropriate for only three categories: large industrial boilers and turbines, cement kilns, and

IC engines. For large IC engines, we determined, based on the relevant Alternative Control Techniques (ACT) document,¹⁵ that post-combustion controls are available that would achieve a 90 percent reduction from uncontrolled levels at costs well below \$2,000 per ton. Therefore, the budget calculations included a 90 percent decrease for large IC engines.

2. What Was the March 3, 2000 Court Decision Regarding IC Engines?

In the litigation on the NO_x SIP Call, the Interstate Natural Gas Association of America (INGAA), a trade association that represents major interstate natural gas transmission companies in the United States, contended that we did not provide adequate notice and opportunity to comment on the control level assumed for IC engines in its determination of State NO_x budgets for the final rule. In *Michigan v. EPA*, 213 F.3d at 693, the Court agreed and remanded this issue to us for further consideration.

The INGAA further contended that the documents that we relied on did not support our assumption of 90 percent control level. In remanding due to inadequate notice, the Court did not rule on the merits of the issue, i.e., the level of control for IC engines.

In addition, INGAA challenged our definition of "large" IC engine.¹⁶ The Court, however, upheld the Agency's definition of large IC engine, stating that we went through an extensive comment period on this issue. *Id.* at 693–94.

3. What Are the Emissions From IC Engines?

The large IC engines affected by the NO_x SIP Call are primarily used in pipeline transmission service with gas turbines at compressor stations. Uncontrolled NO_x emissions from large IC engines are, on average, greater than 3.0 lbs/mmBtu and uncontrolled NO_x emissions from gas turbines are about 0.3 lbs/mmBtu. In the NO_x SIP Call, we determined that highly cost-effective controls are available to reduce emissions from large IC engines by 90 percent from uncontrolled levels (i.e., to about 0.3 lbs/mmBtu);¹⁷ and that NO_x

¹⁵ Alternative Control Techniques document, "NO_x Emissions from Stationary Reciprocating Internal Combustion Engines," EPA-453/R-93-032, July 1993.

¹⁶ A large IC engine is one that emitted, on average, more than 1 ton per day during the 1995 ozone season (May 1 through September 30).

¹⁷ The discussion in the text generally uses "grams/brake horsepower-hour" or g/bhp-hr rather than lbs/mmBtu since the former is the convention for the industry. The uncontrolled estimate of 3.0 lbs/mmBtu (from AP-42, October 1996) corresponds to about 11.3 g/bhp-hr. The 1993 ACT

emissions from large gas turbines (and boilers) can be decreased by highly cost-effective controls to an average regionwide emission rate of 0.15–0.17 lbs/mmBtu.¹⁸

In the September 24, 1998 final NO_x SIP Call Rule, we identified about 300 large IC engines. Subsequently, we received information from commenters seeking to make changes to the emissions inventory. We made corrections to the emissions inventory which now includes about 200 large IC engines in the final NO_x SIP Call budget (65 FR 11222). The vast majority of large IC engines included in the budget are natural gas fired.

4. What Control Technologies Are Available for IC Engines?

For the NO_x SIP Call, we divided IC engines into four categories and assigned (for purposes of the budget calculation) a 90 percent emissions decrease on average to each category. The 90 percent decrease was based on information in our ACT document for IC engines and application of the following controls: non-selective catalytic reduction (NSCR) for natural gas-fired rich-burn engines and SCR for diesel, dual-fuel, and natural gas-fired lean-burn engines.

As described in detail in the ACT document, several other control technologies are available to decrease emissions of NO_x from IC engines. For natural gas-fired rich-burn engines, the following additional controls exist: air/fuel adjustment, ignition timing retard, ignition timing retard plus air/fuel adjustment, prestratified charge, and low-emission combustion. For diesel engines, ignition timing retard can also be used to reduce emissions of NO_x. For dual-fuel engines ignition timing retard and low-emission combustion are available. Finally, for natural gas-fired lean-burn engines, the following additional controls exist: air/fuel adjustment, ignition timing retard, ignition timing retard plus air/fuel adjustment, and low emission combustion. These controls technologies vary in terms of cost, effectiveness, additional fuel needed, and impact on power output.

The NO_x SIP Call budgets were calculated by applying controls described in the ACT document for IC engines that represented the greatest emissions reductions that would be achieved by applying available, highly cost-effective controls. For natural gas-

fired rich-burn IC engines, NSCR provides the greatest NO_x reduction of all the highly cost-effective technologies considered in the ACT document and is capable of providing a 90 to 98 percent reduction in NO_x emissions. For diesel and dual-fuel engines, SCR provides the greatest NO_x reduction of all highly cost-effective technologies considered in the 1993 ACT document and is reported to provide an 80 to 90 percent reduction in NO_x emissions. More recent reports state that NO_x emissions can be reduced by greater than 90 percent by SCR. Therefore, we estimate NO_x reductions for these engines at 90 percent on average. We estimate the population of diesel/dual fuel IC engines is a very small part of the large IC engines population in the NO_x SIP Call (less than 3 percent).

In addition to being highly cost effective and providing greater emission reductions, the above selected controls generally have the advantage of requiring less additional fuel and have less adverse impact on power output. For example, ignition retard and air-fuel ratio adjustment requires the use of up to 7 percent additional fuel and prestratified charge technology may reduce power output up to 20 percent. In contrast, NSCR and SCR technologies require additional fuel in the range of 0.5 to 5 percent and may reduce power output only in the 1 to 2 percent range.

For all large IC engines, except natural gas-fired lean-burn engines (see discussion below on lean-burn engines), we continue to believe that 90 percent control is achievable through NSCR or SCR and is highly cost effective—i.e., less than \$2000/ton ozone season. This is demonstrated in the ACT document for IC engines and in the IC Engines Technical Support Document (TSD) entitled “Stationary Reciprocating Internal Combustion Engines Technical Support Document for NO_x SIP Call Proposal,” EPA, OAQPS, September 5, 2000 (IC Engines TSD). Therefore, we propose to assign a 90 percent emissions decrease on average for large natural gas-fired rich-burn, diesel, and dual-fuel IC engines. We invite comment on all the control technologies listed above, as well as other technologies not listed. The appropriate control technology and percent reduction for natural gas-fired lean-burn engines is discussed later in this action.

The time required from a request for cost proposal to field installation of proposed NO_x controls for IC engines is less than 11 months. Therefore, an implementation deadline of May 31, 2004 is reasonable for States required to adopt and submit Phase II rules no later

than April 1, 2003, as well as for Georgia and Missouri.

5. Is SCR an Appropriate Technology for Natural Gas-Fired Lean-Burn IC Engines?

Information received by us from the natural gas transmission industry after publication of the NO_x SIP Call Rule indicates that most, if not all, large natural gas-fired lean-burn IC engines in the SIP Call region are in natural gas distribution and storage service and that these engines experience frequently changing load conditions which make application of SCR infeasible. The industry also states that low emission combustion (LEC) technology is a proven technology for natural gas-fired lean-burn IC engines, while SCR is not. Regarding variable load operations, our ACT document for IC engines states that little data exist with which to evaluate application of SCR for the lean-burn, variable load operations. With the understanding that these large IC engines are in variable load operations, we now believe there is an insufficient basis to conclude that SCR is an appropriate technology for the large lean-burn engines. Therefore, we are no longer proposing that SCR is a highly cost-effective control technology for the natural gas-fired lean-burn IC engines. As described in the next section, we believe LEC technology is a highly cost-effective control technology and is appropriate for natural gas-fired lean-burn IC engines in either variable or continuous load operation.

6. Is LEC Technology Appropriate for Natural Gas-Fired Lean-Burn IC Engines?

Lean-burn engines can reduce NO_x emissions by adjusting the air/fuel ratio to a leaner mode of operation. The increased volume of air in the combustion process increases the heat capacity of the mixture, lowering combustion temperatures and reducing NO_x formation. The LEC technology involves a large increase in the air/fuel ratio (to ultra-lean conditions) compared to conventional designs.

Emissions of NO_x from existing lean-burn engines can vary widely due to the specific air/fuel ratio at which the engine is designed to operate. For naturally aspirated engines (which operate at near stoichiometric air/fuel ratios), emissions can be as high as 26 grams per brake horsepower-hour (g/bhp-hr). Turbo-charged engines can reduce emissions of NO_x up to 40 percent by air/fuel ratio increases. Further, engines designed to operate at very high air/fuel ratios and with

document for IC engines estimates average uncontrolled emissions at 5.13 lb/mmBtu or 16.8 g/bhp-hr.

¹⁸ NO_x SIP Call Rule at 63 FR 57402.

advanced ignition technology can reduce emissions to about 1 g/bhp-hr.

Because there are many types of existing lean-burn engines (e.g., some turbo charged, some not), the retrofit of LEC technology would require different modifications depending on the particular engine. Application of components of LEC technology will yield incremental emissions reductions. Therefore, it is important to carefully define LEC technology. We propose the following definition, which is similar to the description of LEC technology in the ACT document, and invite comments on the definition. Implementation of LEC technology for lean-burn IC engines means:

The modification of a natural gas-fueled, spark-ignited, reciprocating internal combustion engine to reduce emissions of NO_x by utilizing ultra-lean air-fuel ratios, high energy ignition systems and/or pre-combustion chambers, increased turbo charging or adding a turbo charger, and increased cooling and/or adding an intercooler or aftercooler, resulting in an engine that is designed to achieve a consistent NO_x emission rate of not more than 1.5–3.0 g/bhp-hr at full capacity (usually 100 percent speed and 100 percent load).

The ACT for IC engines and other documents indicate that LEC technology is appropriate for lean-burn engines, continuous or variable load, and is highly cost effective. We believe application of LEC would achieve NO_x emission levels in the range of 1.5–3.0 g/bhp-hr. This is an 82 to 91 percent reduction from the average uncontrolled emission levels, on average, reported in the ACT document. We believe that LEC retrofit kits are available for all large lean-burn IC engines. As described in the IC Engines TSD, emissions test data collected over the last several years indicate that 91 percent of IC engines with installed LEC technology achieved emission rates of 1.5 g/bhp-hr or less. A guaranteed level of 2.0 g/bhp-hr is generally available from engine manufacturers.

Because most of the engines tested actually are below 1.5 g/bhp-hr, even if some engines in the SIP call area were to exceed the 3.0 level, the average emission rate of several engines is still expected to be well within the 1.5 to 3.0 range. That is, while engines that are equipped with LEC technology designed to meet a 1.5 to 3.0 g/bhp-hr standard will generally meet the design goal, the actual results for a particular engine may vary. There is one type of engine model, Worthington engines, that may be particularly difficult to retrofit and which may exceed the 1.5 to 3.0 g/bhp-hr LEC retrofit level. We request

comment on where and how many large Worthington engines are in the area covered by the NO_x SIP Call and what average control level should be expected with application of LEC technology for those engines.

a. Can States adopt an LEC technology standard?

States, of course, are not required to adopt technology standard rules nor even to adopt rules to control emissions from IC engines. However, if States choose to use a technology standard for regulating IC engines, we believe it would be appropriate for States to assume an average reduction level for each engine installing this technology for purposes of calculating the State's emission budget.

In many cases, we do not suggest a technology-based standard since an emission rate and continuous emissions monitoring approach can provide more environmental certainty. In this instance, we have data identifying the tonnage baseline for each large IC engine, but we do not have emission rate (or heat input) data for each IC engine. Thus, in order to calculate the budget reduction for IC engines, we must identify a percentage reduction and apply that value to the tonnage baseline in order to calculate the budget reduction for IC engines. In the case of IC engines, a technology standard can be readily translated into a percentage reduction. Further, we believe there is a large amount of consistent test data supporting LEC technology which provides environmental certainty.

b. What is the cost effectiveness for large IC engines using LEC technology?

For the control range of 82 to 91 percent, the average cost effectiveness for large IC engines using LEC technology has recently been estimated to be \$520 to 550/ton.¹⁹ We acknowledge that specific cost-effectiveness values will vary from engine to engine. The key variables in determining average cost effectiveness for LEC technology are the average uncontrolled emissions at the existing source, the projected level of controlled emissions, annualized costs of the controls, and number of hours of operation in the ozone season. The ACT document uses an average uncontrolled level of 16.8 g/bhp-hr, a controlled level of 2.0 g/bhp-hr, and nearly continuous operation in the ozone season. We believe the ACT document provides a reasonable approach to calculating cost

effectiveness for LEC technology.

Further, we believe the cost-effectiveness analysis should use updated annualized cost data as described in the IC Engines TSD. For additional information, we analyzed alternative uncontrolled and controlled levels, hours of operation, and annualized costs (see IC Engines TSD). The sensitivity analysis indicates a range of cost effectiveness for large IC engines using LEC technology of \$510 to 870/ton (ozone season).

7. What NO_x SIP Call Budget Calculations Are We Proposing?

We propose to assign a 90 percent emissions decrease on average for large natural gas-fired rich-burn, diesel, and dual fuel IC engines. For large natural gas-fired lean-burn IC engines, we propose to assign a percent reduction from within the range of 82 to 91 percent. Based on available data regarding demonstrated costs, effectiveness, availability, and feasibility of LEC technology, and consideration of comments received in response to the proposal, we intend to determine a percent reduction number to use in calculating this portion of the NO_x SIP Call budget decrease; the reduction is likely to be within the 82 to 91 percent range. The average cost effectiveness for all large IC engines in the SIP Call population is estimated to be \$530/ton ozone season, where LEC technology is assigned an 87 percent reduction and SNCR and SCR achieve 90 percent reduction.²⁰ The Agency invites comment on the control level and associated cost-effectiveness calculations with respect to all IC engine types, and we are especially interested in comments regarding the natural gas-fired lean-burn IC engines.

The NO_x SIP Call emissions inventory identifies natural gas-fired IC engines, but does not separate rich- and lean-burn IC engines. In the final rulemaking, if we choose to use different control levels for rich- and lean-burn IC engines, as proposed above, it would be necessary to estimate the emissions in each category in order to calculate the emissions reductions. We propose to assume that two-thirds of the emissions from large natural gas-fired IC engines are from lean-burn operation and one-third is from rich burn. We invite comments on this estimate.

¹⁹ "NO_x Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO_x SIP Call States" prepared by Pechan-Avanti Group for EPA, August 11, 2000; annual costs in 1990 dollars per NO_x tons reduced in the ozone season.

²⁰ "NO_x Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO_x SIP Call States" prepared by Pechan-Avanti Group for EPA, August 11, 2000.

C. What Is Our Response to the Court Decision on Georgia and Missouri?

Georgia and Missouri industry petitioners challenged our decision to calculate NO_x budgets for these two States based on the entirety of NO_x emissions in each State. The petitioners maintained that the record supports including only eastern Missouri and northern Georgia as contributing to downwind ozone. The challenge from these petitioners generally stems from the OTAG recommendations. The OTAG recommended NO_x controls to reduce transport for areas within the “fine grid,” but recommended that areas within the “coarse grid” not be subject to additional controls, other than those required by the CAA. This was based on OTAG’s modeling analysis. The OTAG recommendation on Utility NO_x Controls was approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

The Court vacated our determination of significant contribution for all of Georgia and Missouri. *Michigan v. EPA*, 213 F.3d at 685. The Court did not seem to call into question the proposition that the fine grid portion of each State should be considered to make a significant contribution downwind.

However, the Court emphasized that “EPA must first establish that there is a measurable contribution,” *id.* at 684, from the coarse grid portion of the State before determining that the coarse grid portion of the State significantly contributes to ozone nonattainment downwind. Elsewhere, the Court seemed to identify the standard as “material contribution [.]” *id.*

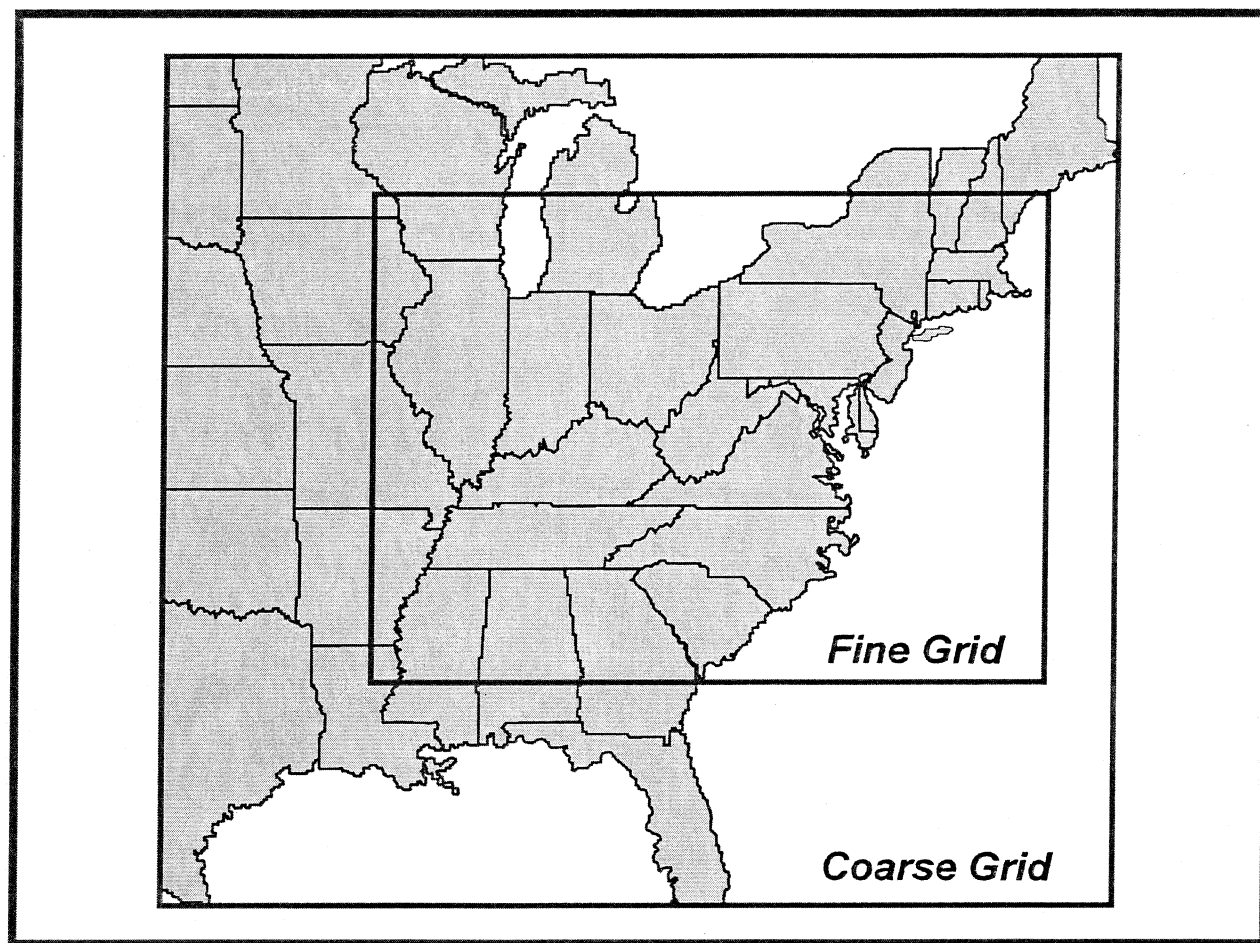
In its modeling, OTAG used grids drawn across most of the eastern half of the United States. The “fine grid” has grid cells of approximately 12 kilometers on each side (144 square kilometers). The “coarse grid” extends beyond the perimeter of the fine grid and has cells with 36 kilometer resolution. The fine grid includes the area encompassed by a box with the following geographic coordinates as shown in Figure 1, below: Southwest Corner: 92 degrees West longitude, 32 degrees North latitude; Northeast Corner: 69.5 degrees West longitude, 44 degrees North latitude (OTAG Final Report, Chapter 2). The OTAG could not include the entire Eastern U.S. within the fine grid because of computer hardware constraints.

It is important to note that there were three key factors directly related to air quality which OTAG considered in

determining the location of the fine grid-coarse grid line.²¹ (OTAG Technical Supporting Document, Chapter 2, pg. 6; www.epa.gov/ttnotag/otag/finalrpt/). Specifically, the fine grid-coarse grid line was drawn to: (1) Include within the fine grid as many of the 1-hour ozone nonattainment problem areas as possible and still stay within the computer and model run time constraints, (2) avoid dividing any individual major urban area between the fine grid and coarse grid, and (3) be located along an area of relatively low emissions density. As a result, the fine grid-coarse grid line did not track State boundaries, and Missouri and Georgia were among several States that were split between the fine and coarse grids. Eastern Missouri and northern Georgia were in the fine grid while western Missouri and southern Georgia were in the coarse grid.

²¹ In addition to these two factors, OTAG considered three other factors in establishing the geographic resolution, overall size, and the extent of the fine grid. These other factors dealt with the computer limitations and the resolution of available model inputs.

Figure 1: OTAG Modeling Domain



The analysis OTAG conducted found that emissions controls examined by OTAG, when modeled in the entire coarse grid (i.e., all States and portions of States in the OTAG region that are in the coarse grid) had little impact on high 1-hour ozone levels in the downwind ozone problem areas of the fine grid.²²

Based on OTAG's modeling and recommendations, the technical record for our final NO_x SIP Call rulemaking, and emissions data, we believe that emissions in the fine grid portions of Georgia and Missouri comprise a measurable or material portion of the entire State's significant contribution to downwind nonattainment. Specifically, OTAG's technical findings and recommendations state that areas located in the fine grid should receive additional controls because they contribute to ozone in other areas within the fine grid. In addition, we performed State-by-State modeling for

Georgia and Missouri as part of the final NO_x SIP Call rulemaking. The results of this modeling show that emissions in both Georgia and Missouri make a significant contribution to nonattainment in other States. Again, our finding of significant contribution was not disturbed by the Court, and the Court stated that the Georgia and Missouri industry petitioners challenging the rule did not challenge this part of the decision. *Michigan v. EPA*, 213 F.3d 681–82.

Examining the 2007 Base Case²³ NO_x emissions for Georgia indicates that the amount of NO_x emissions per square mile in the fine grid portion of the State is over 60 percent greater than in the coarse grid part. In Missouri, the amount of NO_x emissions per square mile in the fine grid portion of the State is more than 100 percent greater (i.e., more than double) than in the coarse grid part. Moreover, and as the Court pointed out, the fine grid portion of each State lies closer to downwind

nonattainment areas. *Michigan v. EPA*, 213 F.3d at 683. The OTAG concluded from its modeling that the closer an upwind area is to the downwind area, the greater the benefits in the downwind area from controls in the upwind area.

We see no reason to revise the existing determination that sources in the fine grid parts of Georgia and Missouri contribute significantly to nonattainment downwind. The basis for this determination continues to be: (1) The results of EPA's State-by-State modeling; (2) OTAG's fine grid-coarse grid modeling; (3) the relatively high amount of NO_x emissions per square mile in the fine grid portions of each State; and (4) the close locations of the fine grid portions of each State to downwind nonattainment areas compared to the coarse grid part, as described above. We are not making a finding today as to whether sources in the coarse grid portions of Georgia and/or Missouri make a measurable or material part of the significant contribution of each of these States, respectively. In this regard, as with the State of Wisconsin described below, we

²² The OTAG recommendation on Major Modeling/Air Quality Conclusions approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

²³ The 2007 Base Case includes all control measures required by the CAA.

will look at the impacts of the coarse grid portions of Georgia and Missouri in conjunction with any further analysis on the remaining 15 OTAG States. In addition, apart from our findings relating to the SIP call, a State may, of course, assess the in-State impacts of NO_x emissions from its coarse grid area, and impose additional NO_x reductions, beyond the NO_x SIP Call requirements in the fine grid, as necessary to demonstrate attainment or maintenance of the ozone NAAQS in the State.

We are proposing to revise the NO_x budgets for Georgia and Missouri to

include only the fine grid portions of these States. The emissions reductions are therefore required from the fine grid portion of the State. For purposes of determining budgets for the fine grid portion, we believe that the OTAG longitude and latitude lines should be used with an adjustment to account for the fact that some counties have a portion of their emissions in both grids (*i.e.*, counties that straddle the line separating fine and coarse grids). Because of difficulties and uncertainties with accurately dividing emissions between the fine and coarse grid of

individual counties for the purpose of setting overall NO_x emissions budgets, we believe that the calculation of the emissions budgets should be based on all counties which are wholly contained within the fine grid. That is, counties which straddle the fine grid-coarse grid line or which are completely within the coarse grid are excluded from the budget calculations for Georgia and Missouri in today's proposal. The counties that we are including in the calculation of NO_x budgets for each of these States are listed in Table 1.

TABLE 1.—FINE GRID COUNTIES IN GEORGIA AND MISSOURI

Georgia:			
Baldwin	Effingham	Jefferson	Putnam
Banks	Elbert	Jenkins	Rabun
Barrow	Emanuel	Johnson	Richmond
Bartow	Evans	Jones	Rockdale
Bibb	Fannin	Lamar	Schley
Bleckley	Fayette	Laurens	Screven
Bulloch	Floyd	Lincoln	Spalding
Burke	Forsyth	Lumpkin	Stephens
Butts	Franklin	McDuffie	Talbot
Candler	Fulton	Macon	Taliaferro
Carroll	Gilmer	Madison	Taylor
Catoosa	Glascocock	Marion	Towns
Chattahoochee	Gordon	Meriwether	Treutlen
Chattooga	Greene	Monroe	Troup
Cherokee	Gwinnett	Morgan	Twiggs
Clarke	Habersham	Murray	Union
Clayton	Hall	Muscogee	Upson
Cobb	Hancock	Newton	Walker
Columbia	Haralson	Oconee	Walton
Coweta	Harris	Oglethorpe	Warren
Crawford	Hart	Paulding	Washington
Dade	Heard	Peach	White
Dawson	Henry	Pickens	Whitfield
De Kalb	Houston	Pike	Wilkes
Dooly	Jackson	Polk	Wilkinson
Douglas	Jasper	Pulaski	
Missouri:			
Bollinger	Iron	Oregon	St. Francois
Butler	Jefferson	Pemiscot	St. Louis
Cape Girardeau	Lewis	Perry	St. Louis City
Carter	Lincoln	Pike	Scott
Clark	Madison	Ralls	Shannon
Crawford	Marion	Reynolds	Stoddard
Dent	Mississippi	Ripley	Warren
Dunklin	Montgomery	St. Charles	Washington
Franklin	New Madrid	St. Genevieve	Wayne
Gasconade			

D. What Are We Proposing for Alabama and Michigan in Light of the Court Decision on Georgia and Missouri?

We are proposing to calculate Alabama's and Michigan's budgets in the same manner as Georgia and Missouri, as described above. While no petitioners raised any issues concerning the inclusion of only parts of Alabama and Michigan in the NO_x SIP Call, the Court's reasoning regarding Georgia and Missouri applies equally to Alabama and Michigan. Based on the information

in the record, we are proposing to revise the NO_x budgets for Alabama and Michigan to reflect reductions only in the fine grid portions of these States. Again, like Georgia and Missouri, we see no reason to disturb the determination that sources in the fine grid contribute significantly to nonattainment downwind. Like Georgia and Missouri, the fine grid portions of both Alabama and Michigan are closer to downwind 1-hour ozone nonattainment areas than the coarse grid parts of these States. Also, the amount

of NO_x emissions per square mile in the fine grid portion of Alabama is nearly 60 percent greater than in the coarse grid part; and in Michigan the fine grid NO_x emissions per square mile are more than 500 percent greater than emissions per square mile in the coarse grid portion of this State. Counties in Michigan and Alabama which straddle the fine grid-coarse grid are excluded from the budget calculations as described above for Georgia and Missouri. The counties in Alabama and Michigan that we are including in the calculation of NO_x

budgets for each of these States are listed in Table 2.

TABLE 2.—FINE GRID COUNTIES IN ALABAMA AND MICHIGAN

Alabama:				
Autauga	Colbert	Greene	Macon	St. Clair
Bibb	Coosa	Hale	Madison	Shelby
Blount	Cullman	Jackson	Marion	Sumter
Calhoun	Dallas	Jefferson	Marshall	Talladega
Chambers	De Kalb	Lamar	Morgan	Tallapoosa
Cherokee	Elmore	Lauderdale	Perry	Tuscaloosa
Chilton	Etowah	Lawrence	Pickens	Walker
Clay	Fayette	Lee	Randolph	Winston
Cleburne	Franklin	Limestone	Russell	
Michigan:				
Allegan	Eaton	Kalamazoo	Monroe	St. Clair
Barry	Genesee	Kent	Montcalm	St. Joseph
Bay	Gratiot	Lapeer	Muskegon	Sanilac
Berrien	Hillsdale	Lenawee	Newaygo	Shiawassee
Branch	Ingham	Livingston	Oakland	Tuscola
Calhoun	Ionia	Macomb	Oceana	Van Buren
Cass	Isabella	Mecosta	Ottawa	Washtenaw
Clinton	Jackson	Midland	Saginaw	Wayne

Today, we are proposing to revise the budgets for Alabama and Michigan in the SIP Call regulations to reflect only the fine grid portions of those States. As with Georgia and Missouri, the emissions reductions are therefore required from the fine grid portion of the State. We believe this approach is consistent with the reasoning of the Court's March 3, 2000 opinion concerning Georgia and Missouri and is justified as provided above.²⁴

E. What Modifications Will be Made to the NO_x Emissions Budgets?

Today, we are proposing a small change in the statewide emissions budgets. We are proposing to calculate the budgets in the same manner as the technical amendments (65 FR 11222, March 2, 2000) for purposes of defining EGUs. In addition, we are proposing a

range of possible control levels (82 to 91 percent) for the natural gas-fired lean-burn IC engines. For the other IC engine subcategories (natural gas fired rich burn, diesel, and dual fuel) we are proposing 90 percent control. Because the vast majority of large IC engines are natural gas fired and about two-thirds of these are lean-burn, we are applying the 82 and 91 percent reductions to all large IC engines for the purpose of roughly estimating this portion of the proposed budget. Therefore, we are proposing to revise the statewide emissions budgets to reflect this range of possible control levels. The final budgets will more precisely reflect the final rule's breakdown of control percentage per subcategory.

We are proposing to calculate the budgets for Georgia, Missouri, Alabama,

and Michigan assuming controls in all counties that are fully located in the fine grid, as discussed in sections II.C. and II.D. The partial State budgets for Georgia, Missouri, Alabama, and Michigan in today's action are calculated using 82 percent and 91 percent, as well as using the definition of EGUs as described above.

Our proposed budgets are shown in Tables 3–6. For States that have submitted Phase I SIPs, Tables 7 and 8 show the incremental difference between Phase I and Phase II budgets. Several States have already submitted SIPs that meet the entire budget. However, other States have submitted only a Phase I SIP. We propose to require those States to supplement their control plans with rules that will meet the proposed Phase II increment.

TABLE 3.—PROPOSED STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (82 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Connecticut	46,015	42,850	3,165	7
Delaware	23,797	22,862	935	4
District of Columbia	6,471	6,658	-187	-3
Illinois	368,870	271,091	97,779	27
Indiana	340,654	230,381	110,273	32
Kentucky	237,413	162,519	74,894	32
Maryland	103,476	81,947	21,529	21
Massachusetts	87,095	84,922	2,173	2
New Jersey	105,489	96,876	8,613	8
New York	255,658	240,322	15,336	6

²⁴ Pursuant to the court's order lifting the stay of the SIP submission obligation, the 20 States, including Alabama and Michigan, were required to submit SIPs in response to the SIP Call by October 30, 2000. As discussed above, in letters dated April

11, 2000 to State Governors, we provided that the States that remained subject to the SIP Call could choose to submit SIPs meeting only the Phase I emissions budget for each State. With respect to Alabama and Michigan, we also provided that

Alabama and Michigan could choose to submit SIPs that address emissions only in the fine grid portion of the State.

TABLE 3.—PROPOSED STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (82 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)—Continued
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
North Carolina	224,696	165,306	59,390	26
Ohio	373,222	249,541	123,681	33
Pennsylvania	345,203	257,928	87,275	25
Rhode Island	9,463	9,378	85	1
South Carolina	152,805	123,496	29,309	19
Tennessee	256,765	198,286	58,479	23
Virginia	210,786	180,521	30,265	14
West Virginia	176,699	83,921	92,778	53

TABLE 4.—PROPOSED STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (91 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Connecticut	46,015	42,850	3,165	7
Delaware	23,797	22,862	935	4
District of Columbia	6,471	6,658	-187	-3
Illinois	368,870	270,493	98,377	27
Indiana	340,654	229,913	110,741	33
Kentucky	237,413	162,242	75,171	32
Maryland	103,476	81,892	21,584	21
Massachusetts	87,095	84,838	2,257	3
New Jersey	105,489	96,876	8,613	8
New York	255,658	240,285	15,373	6
North Carolina	224,696	164,987	59,709	27
Ohio	373,222	249,241	123,981	33
Pennsylvania	345,203	257,551	87,652	25
Rhode Island	9,463	9,378	85	1
South Carolina	152,805	123,056	29,749	19
Tennessee	256,765	198,015	58,750	23
Virginia	210,786	180,154	30,632	15
West Virginia	176,699	83,822	92,877	53

TABLE 5.—PROPOSED PARTIAL STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (82 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Georgia	209,914	150,656	59,258	28
Missouri	92,697	61,433	31,264	34
Alabama	169,156	119,827	49,329	29
Michigan	245,929	190,908	55,021	22

TABLE 6.—PROPOSED PARTIAL STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (91 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Georgia	209,914	150,246	59,668	28
Missouri	92,697	61,403	31,294	34
Alabama	169,156	119,290	49,866	29
Michigan	245,929	190,860	55,069	22

TABLE 7.—COMPARISON OF PHASE I AND PROPOSED PHASE II STATE NO_x BUDGETS COMPARISON (82 PERCENT IC ENGINE CONTROL)
[Tons/season]

State	Phase I budget	Proposed phase II budget	Phase II incremental difference
Alabama	124,795	119,827	4,968
Connecticut	42,891	42,850	41
Delaware	23,522	22,862	660
District of Columbia	6,658	6,658	0
Illinois	278,146	271,091	7,055
Indiana	234,625	230,381	4,244
Kentucky	165,075	162,519	2,556
Maryland	82,727	81,947	780
Massachusetts	85,871	84,922	949
Michigan	191,941	190,908	1,033
New Jersey	95,882	96,876	–994
New York	241,981	240,322	1,659
North Carolina	171,332	165,306	6,026
Ohio	252,282	249,541	2,741
Pennsylvania	268,158	257,928	10,230
Rhode Island	9,570	9,378	192
South Carolina	127,756	123,496	4,260
Tennessee	201,163	198,286	2,877
Virginia	186,689	180,521	6,168
West Virginia	85,045	83,921	1,124

TABLE 8.—COMPARISON OF PHASE I AND PROPOSED PHASE II STATE NO_x BUDGETS COMPARISON (91 PERCENT IC ENGINE CONTROL)
[Tons/season]

State	Phase I budget	Proposed phase II budget	Phase II incremental difference
Alabama	124,795	119,290	5,505
Connecticut	42,891	42,850	41
Delaware	23,522	22,862	660
District of Columbia	6,658	6,658	0
Illinois	278,146	270,493	7,653
Indiana	234,625	229,913	4,712
Kentucky	165,075	162,242	2,833
Maryland	82,727	81,892	835
Massachusetts	85,871	84,838	1,033
Michigan	191,941	190,860	1,081
New Jersey	95,882	96,876	–994
New York	241,981	240,285	1,696
North Carolina	171,332	164,987	6,345
Ohio	252,282	249,241	3,041
Pennsylvania	268,158	257,551	10,607
Rhode Island	9,570	9,378	192
South Carolina	127,756	123,056	4,700
Tennessee	201,163	198,015	3,148
Virginia	186,689	180,154	6,535
West Virginia	85,045	83,822	1,223

F. How Will the Compliance Supplement Pools Be Handled?

The compliance supplement pool is a pool of allowances that can be used in the beginning of the program to provide affected sources additional compliance flexibility in order to address concerns raised by commenters on the SIP Call proposal regarding electric reliability. In the SIP Call Rule, the compliance supplement pool may be used in the years 2003 and 2004 (see 63 FR 57428–

57430, October 27, 1998, for further discussion of the compliance supplement pool). In *Michigan*, the Court of Appeals for the District of Columbia Circuit ruled that May 31, 2004, rather than May 1, 2003 is the date by which sources must install controls to comply with the SIP Call. Consequently, to be consistent with the original 2-year window specified in the SIP Call in which we allowed the compliance supplement pool allowances to be used, we are extending

the time that allowances from the compliance supplement pool can be used from September 30, 2004 to September 30, 2005. We are also proposing to include compliance supplement pools for Georgia and Missouri. As under the original NO_x SIP Call, Georgia and Missouri may distribute the allowances in their respective pools either based on early reductions, directly to sources based on a demonstrated need, or by some combination of the two methods. (For a

more complete discussion of how compliance supplement pool allowances may be distributed under the NO_x SIP call *see* 63 FR 57429.) The allowances from Georgia's and Missouri's compliance supplement pools may be used to account for emissions during the first 2 years' ozone seasons that sources in those States are required to comply.

We are not proposing to change the individual State compliance supplement pool values that were finalized in the March 2, 2000 technical corrections to the emission budgets (65 FR 11222) with the exception of Alabama, Georgia, Michigan, Missouri, and Wisconsin. Changing the State compliance supplement pools to reflect the State budget changes made in this action would result in minimal impacts on the size of any State's compliance

supplement pool. Therefore, we have decided to maintain the compliance supplement pools at the levels determined in the March 2, 2000 technical amendment (with the exception of Alabama, Georgia, Michigan, Missouri, and Wisconsin).

Since the proposed required reductions in Georgia, Missouri, Alabama, and Michigan are less than the required reductions of the September 24, 1998 NO_x SIP Call reflecting full State emissions budgets, we propose to make corresponding decreases to the compliance supplement pools for the portion of each State that is still subject to the SIP Call. We propose to calculate the partial-State compliance supplement pools by prorating the size of the full-State compliance pool by the ratio of the reductions that we are proposing for the partial-State to the reductions that we

required in the March 2, 2000 Technical Amendment (65 FR 11222). However, to be consistent with the way the compliance supplement pool was calculated in the other States, we are assuming a 90 percent reduction from IC engines for purposes of calculating the compliance supplement pool. In addition, since Wisconsin is not being required to make reductions at this time, Wisconsin is no longer receiving a share of the compliance supplement pool. (Wisconsin's original compliance supplement pool was 6,920 tons.) For these reasons, the total compliance supplement pool is now less than 200,000 tons. The revised compliance supplement pools for Georgia, Missouri, Alabama, and Michigan are shown in Table 9.

TABLE 9.—COMPLIANCE SUPPLEMENT POOLS (CSP)

	Full state tons reduced (from March 2, 2000 FR)	Partial state tons reduced with 90% IC engine control	Full state CSP	Partial state CSP reduced with 90% IC engine control
GA	63,582	57,623	11,440	10,728
MO	62,242	31,291	11,199	5630
AL	64,954	49,806	11,687	8962
MI	63,118	55,064	11,356	9907

G. Will the EGU Budget Changes Affect the States Included in the Three-State Memorandum of Understanding?

In February 1999, Connecticut, Massachusetts, Rhode Island, and EPA signed a Memorandum of Understanding (the three-State MOU). The three-State MOU redistributed Connecticut, Massachusetts, and Rhode Island's EGU emissions budgets to minimize the size differential between their EGU budgets under the NO_x SIP Call and Phase III of the Ozone Transport Commission (OTC) NO_x Budget program. It also reallocated the three States' compliance supplement pools.

Under the three-State MOU, Connecticut, Massachusetts, and Rhode Island would collectively be meeting their NO_x SIP Call reduction responsibilities because the budget redistribution did not result in a higher combined overall EGU budget for the three States. We took action to implement the three-State MOU and concurrently published proposed and direct final rules on September 15, 1999 (64 FR 50036 and 49987). We subsequently withdrew the direct final rule on November 1, 1999 due to the receipt of adverse comment (64 FR 58792). The EGU budgets proposed in

today's action would not affect the EGU budgets for Connecticut, Massachusetts, and Rhode Island that we proposed in response to the three-State MOU. We did not finalize the proposal to act on the three State MOU. Instead, we proposed to approve the three State's NO_x SIP call SIP submittals, with budgets that reflected the three-State MOU, as collectively meeting their NO_x SIP call budgets. We did not receive any comments on the proposed approval of these three State's SIPs and finalized approval of them on December 27, 2000.

H. How Does the Term "Budget" Relate to Conformity Budgets?

We wish to clarify that the use of the term "budget" in this action does not refer to the transportation conformity rule's use of the term "motor vehicle emissions budget," defined at 40 CFR 93.101. The budgets proposed today do not set budgets for specific ozone nonattainment areas for the purposes of transportation conformity. Transportation conformity budgets cannot be tied directly to the SIP Call budgets because the latter are for all or a large part of the State and the former are nonattainment-area-specific. For nonattainment or maintenance areas in a State covered by the SIP Call, transportation conformity budgets must

reflect the mobile source controls assumed in the SIP Call budgets to the extent that the attainment SIP ultimately relies upon those controls.

I. How Will Partial-State Trading Be Administered?

In the final NO_x SIP Call, we offered to administer a multi-State NO_x Budget Trading Program for States affected by the NO_x SIP Call. In today's action, we are proposing to include only partial State budgets for Alabama, Georgia, Michigan, and Missouri. Therefore, we are offering to administer a trading program for the NO_x SIP Call region that, for these four States, includes only the portion of the States proposed for inclusion in the NO_x SIP Call. In the final NO_x SIP Call, as well as the January 18, 2000 final rulemaking on the original eight Section 126 petitions, we authorized sources in States affected by either the NO_x SIP Call or the Section 126 rulemaking to trade with each other through the mechanisms of the NO_x Budget Trading Program provided certain criteria were met. These criteria included that States must be subject to the NO_x SIP Call and that States must meet the emission control level under the final rule for the NO_x SIP Call. The justification for allowing trading across States is the test of

significant contribution which underlies both the Section 126 rulemaking and the NO_x SIP Call. Therefore, at this time, only sources in the portions of the States for which a finding of significant contribution has been made and budgets have been established would be allowed to participate in trading with sources in States which are subject to either the NO_x SIP Call or the Section 126 rulemaking.

J. What SIP Submittal Dates Are We Proposing?

In today's action, we are proposing a range of due dates for States to submit SIPs meeting the Phase II NO_x budgets and the partial State budgets for Georgia and Missouri. We believe that the appropriate timeframe to consider for SIP submittal is 6 months to 1 year from final promulgation of this rulemaking but no later than April 1, 2003, and we request comment on which date within this timeframe is appropriate. We believe that a deadline within this range will allow adequate time for States to promulgate rules, and for sources affected by a State's Phase II NO_x strategy and by Georgia and Missouri's NO_x strategy to comply with the regulations by the dates proposed in this action. Please see section K, below, for a discussion of the compliance dates.

In establishing the end of the range, *i.e.*, April 1, 2003, we considered the fact that the original NO_x SIP Call Rule allowed 12 months from the date of promulgation for SIPs to be due. We are hopeful that we will finalize this rulemaking in Spring 2002. The purpose of having an end date to the range is to ensure that sources can comply by the dates discussed below, which will ensure that the reductions necessary to minimize ozone transport occur expeditiously.

We believe that a SIP submittal due date within the proposed range would give States adequate time to adopt rules and give sources adequate time to install control equipment needed to comply.

K. What Compliance Dates Are We Proposing?

There are two primary issues that need to be considered when determining a reasonable date by which EGUs covered by any Phase II SIPs or by SIPs in Georgia and Missouri, can install controls to achieve the emissions reductions required:

(1) How long does it take to complete the design, construction, and testing of the controls on large boilers used to generate electricity?

(2) Does the amount of time that EGUs are taken off-line to install controls adversely affect the reliability of the

electric power system? In other words, does installation of controls reduce the amount of available generation to the point where no power can be supplied to certain users for a period of time?

We believe control equipment can generally be applied in an expeditious manner. For example, controls on IC engines may be installed in less than 1 year. States that choose to control large EGUs, however, may experience longer timeframes for installation of post-combustion controls. For this reason, we analyzed the timeframe required to install controls on large EGUs as part of our decision on the appropriate compliance date to set.

In an effort to remain consistent with the August 30, 2000 Court of Appeals' decision regarding the compliance date for Phase I of the NO_x SIP Call, we are proposing a compliance date of May 31, 2004 for Phase II sources. We are proposing a May 1, 2005 compliance date for affected sources in Georgia and Missouri. We request comment on the feasibility of these compliance dates.

Given a Phase II SIP submittal date as late as April 1, 2003, owners and operators of affected units subject to State control requirements would have about 13 months, and affected units in Georgia and Missouri would have about 25 months to install the necessary controls.

The discussion below supports a Phase II SIP submittal date as late as April 1, 2003 for the 19 States and District of Columbia, as well as for Georgia and Missouri. Of course, adopting and submitting the SIP earlier would provide additional time for the installation of controls.

1. What Is the Technical Feasibility of the Compliance Dates?

Under Section 126, we issued a final rule determining that sources in nine jurisdictions (Delaware, District of Columbia, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia) and portions of four other jurisdictions (Indiana, Kentucky, Michigan, and New York) named in the NO_x SIP Call significantly contribute to nonattainment in one or more of the petitioning States. As finalized by EPA, that rule directly regulated sources within the 13 States and required compliance by May 1, 2003 (64 FR 28250, May 25, 1999 and 65 FR 2674, January 18, 2000). On August 24, 2001, the D.C. Circuit issued an order in the *Appalachian Power-126 Case*, tolling the date for implementing the controls required under the Section 126 Rule. Our analysis of the time needed to comply with the Phase II rulemaking is still applicable as long as sources are

required to comply with the Section 126 requirements by May 31, 2004. In addition, as part of the OTC NO_x Budget Program, the remaining Northeast States covered in today's action (Connecticut, Massachusetts, New York and Rhode Island) have submitted SIPs, which we have approved, to comply by May 1, 2003 with the NO_x SIP Call.

We examined the time needed to install the post-combustion controls (SCR and SNCR) on large boilers used to generate electricity because they represent the most time-consuming NO_x control retrofits. In this feasibility analysis, we looked at the retrofits we projected were needed for affected units in Georgia and Missouri and Phase II units in the remaining States to comply with the NO_x SIP Call. These remaining States include: Alabama, Georgia, Illinois, Missouri, South Carolina, and Tennessee and portions of Indiana, Kentucky, and Michigan.

We believe that if States (other than Georgia and Missouri) submit SIPs by April of 2003, there is still sufficient time for sources to install the necessary controls by May 31, 2004. To determine the amount of time involved, we analyzed which sources would reasonably be expected to be subject to the Phase II rule. While States may meet the requirements of the SIP Call by requiring reductions from any sources that are available, most States, as a means of compliance with Phase I of the SIP Call, are choosing to require reductions from the same group of sources that we considered in determining the budgets. Therefore, we believe it is reasonable to assume that States will also regulate, as part of their Phase II compliance strategy, the same sources that we used to develop the Phase II budgets.

Our analysis showed that under Phase II, and assuming the multi-state trading program, three small coal-burning units would elect to install SNCR control technology (September 2000 Feasibility memorandum, docket # A-96-56, item # XII-K-46). We projected that most of the other units would not need to install post-combustion controls because they were either already under an emission rate of 0.15 lbs/mmbtu, or they were infrequently operated sources that would find it more economical to purchase allowances than to install post-combustion control equipment. Although installation of SNCR may in some cases be time-consuming, we believe that these sources will be able to comply by the May 31, 2004 compliance date for several reasons. First, we are setting emission budgets for the year 2004 based on a 5-month ozone season. Because States are required to submit

SIPs that demonstrate compliance with only a 4-month period in 2004, their emission budgets will be larger than needed to meet an emission cap of 0.15 lbs/mmBtu in 2004. Therefore, States will have more than their sources need to achieve the 0.15 lb/mmBtu level in 2004. The States will have flexibility to allocate these allowances recognizing that some sources—such as the three sources noted above—may need extra time to comply.

Furthermore, even though we projected that it would take 19 months to install SNCR, the actual installation process is projected to take only 8 months. The majority of the 19-month installation is related to obtaining a construction permit (9 months). Because sources should have a strong indication of whether they are going to be regulated under a State's Phase II rulemaking before the rulemaking is complete, sources could begin this process before a State's rule was finalized. In addition, because only a small number of sources are involved, States may have opportunities to expedite their construction permitting process.

However, for sources in the fine-grid portions of Georgia and Missouri, we propose a May 1, 2005 compliance date. This date will give them 25 months to install necessary controls if States submit SIPs by April 1, 2003. In Missouri, at most three installations of SNCR are projected, or two installations of SCR and one installation of SNCR. In Georgia, installations would be not more than seven SNCRs, or two SCRs and one SNCR. In our analysis, we projected that two SCRs and one SNCR could be installed in less than 25 months and that seven SNCR's could be installed in 23 months (September 2000 Feasibility memorandum, docket # A-96-56, item # XII-K-46). Furthermore, sources in both Georgia and Missouri are already installing some post-combustion controls to come into compliance with ozone nonattainment SIPs. In addition, because much of the work that will be done in Georgia and Missouri will be done after post-combustion controls have been installed in many other States, sources in these States will be able to take advantage of expertise gained in these other installations to reduce the amount of time required to install the controls. For these reasons, we believe the May 1, 2005 implementation date is feasible for Georgia and Missouri.

We are also aware that States could choose to utilize the compliance supplement pool to assist units that demonstrate a need for a longer compliance timeframe, particularly, the

small number of units in Phase II States that might decide to install post-combustion controls. Furthermore, sources could choose to use the trading system to help meet these compliance dates, either by purchasing credits from other parties or by banking emissions at other units they control and using those credits as needed.

2. How Will This Affect Electric Reliability?

Concerns about electric reliability arise whenever units are down, particularly during periods of peak demand. Since units may need to be off-line for longer periods of time to install emission controls than they normally would be if the units were just being shut down to perform other scheduled maintenance, the installation of emission controls may increase concerns about reliability. The potential impact varies depending on the number of units that have to install controls, the additional time that these units have to be taken off-line, and the number of units that are off-line at one time.

We do not anticipate that the installation of NO_x controls, including SCR, will threaten the reliability of the power supply, even during the summer months when the demand for electricity is highest. Since SCR is a post-combustion control device that is not part of the boiler, most of the SCR retrofit can be constructed while the boiler is operating to supply electricity. The boiler needs to be turned off only when the SCR is actually connected to the ducts leaving the boiler. Owners and operators of electric power plants normally schedule connections of these controls during off-peak periods (usually spring or fall), when they already plan to shut down the unit to perform other scheduled maintenance.

The EPA and industry groups examined the reliability of the power supply in the context of a May 2003 compliance date for the entire NO_x SIP Call region. Based on these studies, we concluded that installation of NO_x controls for the entire NO_x SIP Call region (including Phase I and Phase II affected units and affected units in Georgia and Missouri) by May 1, 2003 will not threaten the reliability of the electric power supply. Therefore, we conclude that providing additional time (an additional year and 1 month) for the installation of controls on some of the affected units further ensures that the reliability of the electric power supply will not be threatened by this rule.²⁵

²⁵ We assumed that sources in States affected under the OTC MOU and the Section 126 action will install controls by May 1, 2003, but sources in

a. Reliability in Georgia and Missouri. In the final NO_x SIP Call and the final Section 126 Rule, we included the compliance supplement pool to address commenters' concerns regarding electricity reliability. Therefore, to remain consistent with the intent of the original NO_x SIP Call, we are proposing to include compliance supplement pools for Georgia and Missouri. As under the original NO_x SIP Call, Georgia and Missouri may distribute the allowances in their respective pools either based on early reductions, directly to sources based on a demonstrated need, or by some combination of the two methods. (For a more complete discussion of how compliance supplement pool allowances may be distributed under the NO_x SIP Call See 63 FR 57429.) The allowances from the pools may be used to account for emissions during the first two ozone seasons that Georgia and Missouri are required to comply, which under this proposal would be in 2005 and 2006. The size of their compliance supplement pools have been adjusted to account for the proposed change in geographic coverage. See section II.F. of today's action for a complete discussion of how the size of Georgia and Missouri's compliance supplement pools were calculated.

With a later compliance date (May 1, 2005 as proposed) than the rest of the SIP Call region and the Section 126 region, we believe that concerns about the risk to electric reliability due to the installation of controls in Georgia and Missouri are not justified. Sources in both Georgia and Missouri are expected to install some NO_x controls before May 1, 2005 as part of the States' ozone attainment plans. Furthermore, by May 1, 2005, we expect there to be an active NO_x allowance market on which sources in Georgia and Missouri could rely should they experience an unexpected delay in installing controls.

L. What Are We Proposing for Wisconsin?

In the NO_x SIP Call litigation, the Wisconsin industry petitioners argued that the emissions from Wisconsin do not contribute significantly to nonattainment in any other State. Section 110(a)(2)(D)(i)(I) requires that a State "contribute significantly to

the other States affected by the SIP Call (Alabama, Illinois, South Carolina, Tennessee and portions of Indiana, Kentucky, and Michigan) will have until May 31, 2004 to install controls. In this action, we are proposing that Georgia and Missouri will have until May 1, 2005 to install controls. Sources that will not have to complete installation of controls until May 31, 2004 represent approximately 40 percent of the generation capacity in the SIP Call Region.

nonattainment in * * * any other State” in order to be included in the challenged SIP Call. 42 U.S.C. 7410(a)(2)(D)(i)(I). The Court held that “EPA erroneously included Wisconsin in the NO_x SIP Call because EPA failed to explain how Wisconsin contributes to nonattainment in *any other State*,” 213 F.3d at 361 (emphasis in original). The Court noted that the record showed only that emissions from Wisconsin contribute to violations of the standard over Lake Michigan.

Our “zero-out” modeling of Wisconsin emissions using UAM-V shows that emissions from Wisconsin impact ozone levels in neighboring States, but not during exceedances of the 1-hour NAAQS (*i.e.*, these impacts occur when ozone levels are below the NAAQS). For the OTAG episodes we modeled, the ozone impacts of Wisconsin on 1-hour nonattainment are predicted in the northwestern part of Lake Michigan near the shore line of Wisconsin. In the NO_x SIP Call rulemaking, we concluded that impacts over the lake should be considered as contributions to States bordering the lake (*i.e.*, Michigan, Indiana, and Illinois) because of lake breeze effects (63 FR 57386, October 27, 1998). The Court found that we had not provided adequate support for this determination and vacated the rule’s application to Wisconsin for the 1-hour standard (*Michigan v. EPA*, 213 F.3d at 681).

We agree that additional modeling would be necessary in order to find that Wisconsin significantly contributes to downwind 1-hour nonattainment in any other State and to include Wisconsin in the NO_x SIP Call at this time. Since we do not currently have the modeling necessary to make such a proposal, we intend to exclude the entire State of Wisconsin from the requirements of the 1-hour basis of the NO_x SIP Call to conform to the Court’s decision.

We are not, however, proposing to determine that Wisconsin’s emissions do not contribute significantly to nonattainment downwind. We have not completed the additional modeling analysis for the States that are part of the OTAG region but were not included in the final NO_x SIP Call. In the final NO_x SIP Call, we took no action on whether emissions from sources in 15 States²⁶ in the OTAG region do or do not contribute significantly to downwind nonattainment, or interfere with maintenance downwind, under either the 1-hour or the 8-hour ozone

NAAQS. We will continue to review available information on the downwind impacts of these States. We plan to look at the impacts of Wisconsin in conjunction with any further analysis on the remaining 15 States. To date, we have stayed the 8-hour basis of the SIP Call Rule (65 FR 56245, September 18, 2000) and the Court has stayed consideration of the 8-hour basis of the SIP Call Rule. Today’s action to exclude Wisconsin from the 1-hour basis of the SIP Call does not address whether Wisconsin should remain subject to the 8-hour basis of the SIP Call. We will address that issue at the time it lifts the stay as it applies to Wisconsin.

M. How Are the 8-Hour NAAQS Rules Affected by This Action?

As noted above, the revisions to the NO_x SIP Call proposed in today’s action respond to the Court’s decision in *Michigan v. EPA*. The Court’s decision and today’s proposal concern issues arising under only the 1-hour ozone NAAQS, and not the 8-hour NAAQS. Accordingly, none of the actions proposed today—the definition of EGU and the control requirements for IC engines, and implications for the State budgets; the SIP submission dates; the revised emissions budgets for Alabama, Georgia, Michigan, and Missouri; and the exclusion of Wisconsin—if finalized, would have any effect on any requirements of the SIP Call on States under the 8-hour NAAQS. Because of the litigation concerning the 8-hour ozone NAAQS, we have stayed all of the requirements of the SIP Call under the 8-hour NAAQS, ranging from the SIP submission dates to the control requirements (65 FR 56245, September 18, 2000). After the litigation concerning the 8-hour NAAQS is resolved, we will determine whether to proceed with the 8-hour requirements under the SIP Call.

III. What Are the Administrative Requirements?

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is “significant” and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the

environment, public health or safety, or State, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

This proposed action, which responds to the court decisions in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (NO_x SIP Call); *Appalachian Power v. EPA*, 249 F.3d 1032 (D.C. Cir. 2001) (Section 126 Rule), and *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001) (NO_x SIP Call Technical Amendments), is a “significant regulatory action” under Executive Order 12866 because it raises novel legal or policy issues and is, therefore, subject to review by OMB.

Since this is a “significant regulatory action,” a Regulatory Impact Analysis (RIA) is required. We are using the original RIAs prepared for the three actions at issue in the cases listed above [“Regulatory Impact Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions” (Docket A-96-56)] and [“Regulatory Impact Analysis for the Final Section 126 Rule” (Docket A-97-43)], which contain cost and benefit analyses and economic impact analyses reflecting requirements of those rules. In addition, we are using an update to some of the information in the final NO_x SIP Call RIA entitled, “NO_x Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO_x SIP Call States” (August 11, 2000), an analysis prepared for the IC engine portion of this action. This analysis indicates that there is less cost incurred per engine than shown in the original RIA which was prepared for the final NO_x SIP Call. This document is available for public inspection in Docket A-96-56 which is listed in the ADDRESSES section of this preamble.

B. Executive Order 12898: Environmental Justice

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). For the final NO_x SIP Call and Section 126 Rules, the Agency conducted general analyses of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of these rules. These

²⁶ Arkansas, Florida, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, North Dakota, Nebraska, New Hampshire, Oklahoma, South Dakota, Texas, Vermont.

findings were presented in the RIA for each of these rules. Today's action does not affect these analyses.

C. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children and it is not economically significant under Executive Order 12866.

D. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue

a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed action addressing the NO_x SIP Call and Section 126 Rules does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

In issuing the SIP Call, EPA acted under section 110(k)(5), which requires the Agency to require a State to correct a deficiency that EPA has found in the SIP. In October 1998, EPA issued its final SIP Call Rule finding that the SIPs for 22 States and the District of Columbia were substantially inadequate because they did not regulate emissions that significantly contribute to downwind nonattainment in other States. On March 3, 2000, the D.C. Circuit largely upheld that rule but remanded certain minor issues and vacated and remanded other minor issues to the Agency for further consideration. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (NO_x SIP Call). Today, EPA is proposing action on these remanded and remanded and vacated portions of the rule. This action also responds to an issue that the court remanded and vacated in the challenge to the NO_x SIP Call Technical Amendments. *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001) (NO_x SIP Call Technical Amendments).

With respect to the proposed action concerning the definition of EGU and the level of control for internal combustion engines, the proposed action revising the emission budgets for Georgia, Missouri, Alabama, and Michigan, and the SIP submission and source compliance dates, EPA's proposal does not impose any additional burdens beyond those imposed by the final NO_x SIP Call. Thus, today's action does not alter the relationship established by the final SIP Call Rule, which remains in place for 19 States (including Alabama and Michigan) and the District of Columbia. Moreover, no aspect of the proposed rule changes the established relationship between the States and EPA under title I of the CAA. Under title I of the CAA, States have the primary responsibility to develop plans to attain and maintain the NAAQS. As found by the court, the States have full discretion under the SIP Call Rule to choose the control requirements necessary to

address the transported emissions identified by EPA in the SIP Call.

As provided in the final action promulgating the SIP Call and the Technical Amendments, the SIP Call will not impose substantial direct compliance costs. While the States will incur some costs to develop the plan, those costs are not expected to be substantial. Moreover, under section 105 of the CAA, the Federal government supports the States' SIP development activities by providing partial funding of State programs for the prevention and control of air pollution. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Today's rule also responds to the Court's decision in *Appalachian Power v. EPA*, 249 F.3d 1032 (D.C. Cir. 2001) (Section 126 Rule). This action imposes no new requirements that impose compliance burdens beyond those that EPA established under the final Section 126 Rule (January 18, 2000).

E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's action does not significantly or uniquely affect the communities of Indian tribal governments. The EPA stated in the final NO_x SIP Call Rule, the Technical Amendments Rule, and the Section 126 Rule that Executive Order 13084 did not apply because those final rules do not significantly or uniquely affect the communities of Indian tribal governments or call on States to regulate NO_x sources located on tribal lands. The same is true of

today's action. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This summary of the energy impact analysis report estimates the energy impacts associated with the Phase II portion of the NO_x SIP Call, in accordance with Executive Order 13211. It covers all EGUs that do not participate in the Acid Rain Trading Program and reciprocating internal combustion engines (RICE) in the District of Columbia and the 21 States of the NO_x SIP Call region, as well as all NO_x SIP Call sources (cement kilns, utility boilers, industrial boilers, combustion turbines, and RICE) in the fine grid portions of Georgia and Missouri. In addition, this analysis does not consider impacts on sources in the coarse grid portions of Michigan and Alabama since these sources are not covered in the Phase II rulemaking. The Agency identified applications of control devices appropriate for this analysis that provide high levels of NO_x reduction at relatively low cost, with an average cost of less than \$2,000 (1990 dollars) per ozone season ton of NO_x removed, among them: SCR and NSCR, fluid injection (steam or ammonia—termed SNCR), and LEC. Through its analysis, the Agency identified three relevant energy effects that occur during normal operation of these devices: increased energy demands required by control devices and equipment, increased energy use due to pressure drop and changes in the stoichiometry of the combustion process, and energy credits from improved combustion. Each of these NO_x controls has at least one of these energy effects as part of their normal operation.

The United States consumed over 22 quads (quadrillion Btus) of natural gas in 1999.²⁶ With respect to energy sources, the application of LEC technology to natural gas-driven internal combustion (IC) engines amounts to a savings of about 4,000 million British thermal units (MMBtus) per unit, or about 70 billion Btus for all affected IC engines (about 70 million cubic feet of gas). This amounts to about

three tenths of one percent of the nation's annual consumption. Consequently, the application of LEC technology leads to a small savings in natural gas use nationwide by affected sources and their firms, but not a large enough savings to affect the price or distribution of gas in the United States.

The additional coal necessary to compensate for the loss of efficiency from SCR and SNCR controls amounts to about 11 MMBtus per affected coal-fired boiler, or 89 MMBtus per year per source. For all affected utility and industrial coal-fired boilers, this translates to slightly more than 70 billion Btus. The United States also consumed over 22 quads of coal in 1999. Therefore, the net increase in coal consumption necessary for affected boilers to compensate for their efficiency loss amounts to about three ten-thousandths of one percent of the nation's annual demand for coal. The change in demand for coal caused by NO_x control efficiency loss will not be of sufficient magnitude to affect coal prices. In addition, the reduction in electricity output in response to the requirements of the Phase II NO_x SIP all rulemaking is less than one-half of one percent of predicted nationwide output between 2005 and 2010 (to approximate a 2007 projection). Because utilities constantly adjust their output to match demand, and because demand fluctuates more widely than the predicted reduction in electricity output from the Phase II rulemaking, this report indicates there will be no significant effect on production or the factors of production imposed by the NO_x SIP Call for affected boilers.

Therefore, we conclude that the proposed rule when implemented is not likely to have a significant adverse effect on the supply, distribution, or use of energy. For more information on the results of this analysis, please consult the energy impact analysis report in the public docket for this rule.

G. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with "Federal mandates" 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 in any 1 year. A "Federal mandate" is defined to include

a "Federal intergovernmental mandate" and a "Federal private sector mandate" (2 U.S.C. 658(6)). A "Federal intergovernmental mandate," in turn, is defined to include a regulation that "would impose an enforceable duty upon State, local, or tribal governments," (2 U.S.C. 658(5)(A)(i)), except for, among other things, a duty that is "a condition of Federal assistance" (2 U.S.C. 658(5)(A)(II)). A "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector," with certain exceptions (2 U.S.C. 658(7)(A)).

The EPA prepared a statement for the final NO_x SIP Call that would be required by UMRA if its statutory provisions applied. Today's action does not create any additional requirements beyond those of the final NO_x SIP Call, therefore no further UMRA analysis is needed.

An Unfunded Mandates Analysis was prepared for the proposed Section 126 Rule which was published on May 25, 1999. The EPA updated this analysis for the final Section 126 Rule (January 18, 2000). This "Government Entity Analysis for the Final Section 126 Petitions Under the Clean Air Act Amendments Title I," is available for public inspection in Docket A-97-43 which is listed in the ADDRESSES section of this preamble. This analysis determined that the final 126 rulemaking contained no regulatory requirements that might significantly or uniquely affect small governments. Today's action imposes no new additional requirements above those established in the final Section 126 Rule.

H. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA) regulations at 13 CFR 12.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or

²⁶ National Energy Foundation web page: <http://www.neft1.org/ea/eastats.html>.

special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed action will not impose any requirements on small entities. This action responds to the court decisions in *Michigan v. EPA*, 213 F.3d 663, *Appalachian Power v. EPA*, 249 F.3d 1032 (D.C. Cir. 2001), and *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001) (decisions on the NO_x SIP Call, Section 126 Rule, and NO_x SIP Call Technical Amendments, respectively). The RIA for the original final NO_x SIP Call included impacts to small entities presuming the application of the control strategies we modeled as surrogates for what the States would actually employ in their NO_x SIPs. We also prepared an analysis of impacts to small entities affected by the Section 126 Rule. This analysis is summarized in the RIA for the final Section 126 Rule and included in the docket for that rule. This action does not impose any requirements on small entities nor will there be impacts on small entities beyond those, if any, required by or

resulting from the NO_x SIP Call and the Section 126 Rules.

I. Paperwork Reduction Act

Today's action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and therefore is not subject to these requirements.

J. National Technology Transfer and Advancement Act

In addition, the National Technology Transfer and Advancement Act of 1997 does not apply because today's proposed action does not require the public to perform activities conducive to the use of voluntary consensus standards under that Act in the NO_x SIP Call, and NO_x SIP Call Technical Amendments. Today's proposed action also does not impose additional requirements over those in the final Section 126 Rule. The EPA's compliance with these statutes and Executive Orders for the underlying rules, the final NO_x SIP Call (63 FR 57477, October 27, 1998), the NO_x SIP Call Technical Amendments (64 FR 26298, May 14, 1999; 65 FR 11222, March 2, 2000), and the final Section 126 Rule (65 FR 2674, January 18, 2000) is discussed in more detail in the citations shown above.

The EPA is not proposing rule language in today's document. In the

final rulemaking action in this proceeding, EPA will adopt rule language implementing the final action.

List of Subjects

40 CFR Part 51

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

40 CFR Part 52

Air pollution control, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 96

Administrative practice and procedure, Air pollution control, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 97

Administrative practice and procedure, Air pollution control, Intergovernmental Relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: February 12, 2002.

Christine T. Whitman,
Administrator.

[FR Doc. 02-3917 Filed 2-21-02; 8:45 am]

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Federal Register

**Friday,
February 22, 2002**

Part IV

Environmental Protection Agency

40 CFR Parts 51, 52, et al.

**Interstate Ozone Transport: Response to
Court Decisions on the NO_x SIP Call,
NO_x SIP Call Technical Amendments, and
Section 126 Rules; Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 51, 52, 96, and 97**

[FRL-7147-6]

RIN 2060-AJ16

Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: In today's action, we are proposing to amend two related final rules we issued under sections 110 and 126 of the Clean Air Act (CAA) related to interstate transport of nitrogen oxides (NO_x), one of the main precursors to ground-level ozone. We are responding to the March 3, 2000 decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in which the Court largely upheld the NO_x State Implementation Plan Call (NO_x SIP Call), but remanded four narrow issues to us for further rulemaking action; the related decision by the D.C. Circuit on June 8, 2001, concerning the rulemakings providing technical amendments to the NO_x SIP Call, in which the Court, among other things, vacated and remanded an issue for further rulemaking; and the decision by the D.C. Circuit on May 15, 2001, concerning the related, section 126 rulemaking, in which the Court, among other things, vacated and remanded an issue for further rulemaking; and the related decision by the D.C. Circuit on August 24, 2001, concerning the Section 126 Rule, in which the Court remanded an issue.

In the final NO_x SIP Call, we found that emissions of NO_x from 22 States and the District of Columbia (23 States) significantly contribute to downwind areas' nonattainment of the 1-hour ozone national ambient air quality standards (NAAQS). We established statewide NO_x emissions budgets for the affected States. In rulemakings providing technical amendments to the NO_x SIP Call budgets, we revised those budgets. Today's action addresses the issues remanded by the Court in the two cases involving challenges to both the NO_x SIP Call and the rulemakings providing technical amendments for notice-and-comment rulemaking and proposes related amendments.

In today's action, we are also responding to the D.C. Circuit's decisions in a third case concerning a related rulemaking, the Section 126

Rule, in which the Court remanded an issue and vacated an issue. This action addresses the vacated issue.

DATES: Comments must be postmarked, faxed, or e-mailed by April 15, 2002. A public hearing, if requested, will be held in Washington, DC, on March 15, 2002, beginning at 9:00 am.

ADDRESSES: Comments (in duplicate if possible) may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-56, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone (202) 260-7548, fax (202) 260-4400, and e-mail *A-and-R-docket@epa.gov*. We encourage electronic submissions of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

The public hearing, if requested, will be held at Crystal Mall 2 (Room 1110; the "fishbowl"), Crystal City, 1921 Jefferson Davis Hwy, Arlington, VA 22202.

Documents relevant to this action are available for inspection at the U.S. Environmental Protection Agency, 401 M Street, SW, Waterside Mall, Room M-1500, Washington, DC 20460, between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

General questions concerning today's action should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC, 27711, telephone (919) 541-5665, e-mail at *king.jan@epa.gov*. Technical questions concerning EGUs in today's document should be directed to Kevin Culligan, Office of Atmospheric Programs, Clean Air Markets Division, (6204M), 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 564-9172, e-mail *culligan.kevin@epa.gov*; technical questions concerning internal combustion engines should be directed to Doug Grano, Office of Air Quality Planning and Standards, C539-02, Research Triangle Park, North Carolina 27711, telephone (919) 541-3292, e-mail *grano.doug@epa.gov*; legal questions should be directed to Howard J. Hoffman, Office of General Counsel, (2344A), 1200 Pennsylvania Ave., NW, Washington, DC 20460, telephone (202) 564-5582, e-mail *hoffman.howard@epa.gov*.

SUPPLEMENTARY INFORMATION: Today's action addresses the issues remanded or vacated for notice-and-comment rulemaking by the D.C. Circuit in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000), *cert. denied*, 121 S. Ct. 1225, 149 L. ED. 135 (2001), which concerned the NO_x SIP Call (the "SIP call case"); *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001), which concerned the technical amendments rulemakings for the NO_x SIP Call (the "Technical Amendments case"); and *Appalachian Power v. EPA*, 249 F.3d 1042 (D.C. Cir. 2001) and *Appalachian Power v. EPA*, No. 99-1200, Order (D.C. Cir., August 24, 2001), which concerned the section 126 rulemaking (the "Section 126 case").

In this action, we are proposing to:

- (1) Retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call and in the Section 126 Rule, and retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call with only minor revisions to make the definition consistent with the Section 126 Rule.

- (2) Revise the control levels for stationary internal combustion engines that were assumed in calculating NO_x SIP call budgets for each State,

- (3) Exclude portions of Georgia, Missouri, Alabama and Michigan from the NO_x SIP Call (the court ruling focused on Georgia and Missouri, but the same issue is relevant to Alabama and Michigan),

- (4) Revise statewide emissions budgets in the NO_x SIP Call to reflect the disposition of the first three issues above,

- (5) Set a range of dates for 19 States and the District of Columbia to submit State implementation plans to achieve the emissions reductions required by this second phase of the NO_x SIP Call, and for Georgia and Missouri to submit SIPs meeting the full NO_x SIP Call: 6 months through 1 year from final promulgation of this rulemaking but no later than April 1, 2003,

- (6) Set a compliance date of May 31, 2004, for all sources except those in Georgia and Missouri; and sources in those two States would have a May 1, 2005 compliance date,

- (7) Exclude Wisconsin from NO_x SIP Call requirements.

Ground-level ozone has long been recognized to affect public health. Ozone induces health effects, including decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), increased hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-

existing respiratory disease such as asthma), increased inflammation of the lungs, and possible long-term damage to the lungs.

Public Hearing

A public hearing, if requested, will be held on March 15, 2002 beginning at 9:00 am. The hearing will be held at Crystal Mall 2 (Room 1110, the "fishbowl"), Crystal City, 1921 Jefferson Davis Hwy, Arlington, VA 22202. The metro stop is Crystal City, which is located about 1 1/2 blocks from Crystal Mall 2. If you wish to request a hearing and present oral testimony or attend the hearing, you should notify, on or before March 7, 2002, Ms. JoAnn Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-1815, e-mail allman.joann@epa.gov. Oral testimony will be limited to 5 minutes each. The hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket No. A-96-56 and, to the extent they concern the Section 126 Rule, Docket No. A-97-43, at the address listed above for submitting comments. The hearing schedule, including lists of speakers, will be posted on EPA's webpage at <http://www.epa.gov/ttn/rto/whatsnew.html>. A verbatim transcript of the hearing and written statements will be made available for copying during normal working hours at the Office of Air and Radiation Docket and Information Center at the above address listed for inspection of documents.

If no requests for a public hearing are received by close of business March 7, 2002, the hearing will be cancelled. The cancellation will be announced on the webpage at the address shown above.

Electronic Availability

Electronic comments are encouraged and can be sent directly to EPA at: A-and-R-Docket@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 8.0 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-96-56 and, to the extent they concern the Section 126 Rule, docket number A-97-43. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Availability of Related Information

The official records for the NO SIP Call rulemaking (including the Technical Amendments) and for the Section 126 Rule, as well as the public versions of the records, have been established under docket numbers A-96-56 and A-97-43, respectively (including comments and data submitted electronically as described below). We have added new sections to those dockets for purposes of today's proposed rulemaking. The public version of these records, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, are available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The rulemaking records are located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemakings and associated documents are located at <http://www.epa.gov/ttn/rto/>.

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 - I. Paperwork Reduction Act
 - J. National Technology Transfer and Advancement Act

I. Background

A. What Was Contained in the NO_x SIP Call?

By notice dated October 27, 1998 (63 FR 57356), we took final action to prohibit specified amounts of emissions of one of the main precursors of ground-level ozone, NO_x, in order to reduce ozone transport across State boundaries in the eastern half of the United States. Based on extensive air quality modeling and analyses, we found that sources in 23 States emit NO_x in amounts that significantly contribute to nonattainment of the 1-hour ozone NAAQS in downwind States. We set forth requirements for each of the affected upwind States to submit SIP revisions prohibiting those amounts of NO_x emissions which significantly contribute to downwind air quality problems. We established statewide NO_x emissions budgets for the affected States. The budgets were calculated by assuming the emissions reductions that would be achieved by applying available, highly cost-effective controls to source categories of NO_x. States have the flexibility to adopt the appropriate mix of controls for their State to meet the NO_x emissions reductions requirements of the SIP Call. A number of parties, including certain States as well as industry and labor groups, challenged our NO_x SIP Call Rule.

Independently, we also found that sources and emitting activities in 23 States emit NO_x in amounts that significantly contribute to nonattainment of the 8-hour ozone NAAQS. However, we have indefinitely stayed the NO_x SIP Call as it applies for the purposes of the 8-hour NAAQS (65 FR 56245, September 18, 2000).

B. What Were the Court Decisions on the NO_x SIP Call?

1. What Was the Decision of the Court on the 8-Hour NAAQS?

On May 14, 1999, the D.C. Circuit issued an opinion which, in relevant parts, questioned the constitutionality of the CAA as applied by EPA in its 1997 revision of the ozone NAAQS. See *American Trucking Ass'n v. EPA*, 175 F.3d 1027 (D.C. Cir., 1999). The Court's ruling curtailed our ability to require States to comply with a more stringent ozone NAAQS.

On October 29, 1999, the D.C. Circuit granted in part and denied in part our rehearing request. *American Trucking Ass'n v. EPA*, 194 F.3d 4 (D.C. Cir. 1999). In May 2000, the Supreme Court granted our petition and certain petitioners' cross-petitions of certiorari. On February 27, 2001, the Supreme

Court handed down its decision in *Whitman v. American Trucking Association*, 531 U.S. 457 (2001). In vacating the D.C. Circuit's holding on the point, the Supreme Court held that the CAA was not unconstitutional in its delegation of authority for us to promulgate a revised ozone NAAQS. The case was remanded to the D.C. Circuit to consider challenges to the revised ozone NAAQS on other grounds.

2. What Effect Did This Have on the 8-hour Portion of the NO_x SIP Call?

The litigation created uncertainty with respect to our ability to rely upon the 8-hour ozone standards as an alternative basis for the NO_x SIP Call. As a result, we stayed indefinitely the findings of significant contribution based on the 8-hour standard, pending further developments in the NAAQS litigation (65 FR 56245, September 18, 2000). Because the NO_x SIP Call Rule was based independently on the 1-hour standards, a stay of the findings based on the 8-hour standards had no effect on the remedy required by the 1998 NO_x SIP Call. That is, the stay does not affect our findings based on the 1-hour standards.

3. What Was the D.C. Circuit Decision on the Stay of the SIP Submittal Schedule for the NO_x SIP Call?

The NO_x SIP Call Rule required States to submit SIP revisions by September 30, 1999. State Petitioners challenging the NO_x SIP Call filed a motion requesting the Court to stay the submission schedule until April 27, 2000. In response, the D.C. Circuit issued a stay of the SIP submission deadline pending further order of the Court. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (May 25, 1999 order granting stay in part).

4. What Was the Court's Decision on the NO_x SIP Call?

On March 3, 2000, the D.C. Circuit issued its decision on the NO_x SIP Call, ruling in our favor on the issues that affected the rulemaking as a whole, but ruling against us on several geographic and procedural issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000). The Court's decision in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) concerns only the 1-hour basis for the NO_x SIP Call, and not the 8-hour basis. The requirements of the NO_x SIP Call, including the findings of significant contribution by the 23 States, the emissions reductions that must be achieved, and the requirement for States to submit SIPs meeting statewide NO_x emissions reductions requirements, are

fully and independently supported by our findings under the 1-hour NAAQS alone. The Court denied petitioners' requests for rehearing or rehearing *en banc* on July 22, 2000. Specifically, the Court found in our favor on the following claims:

(1) We could call for the SIP revisions without convening a transport commission;

(2) We undertook a sufficiently State-specific determination of ozone contribution;

(3) We did not unlawfully override past precedent regarding "significant" contribution;

(4) Our consideration of the cost of NO_x reduction as part of the determination of significant contribution is consistent with the statute and judicial precedent;

(5) Our scheme of uniform emissions reductions requirements is reasonable;

(6) CAA § 110(a)(2)(D)(i)(I) as construed by us does not violate the nondelegation doctrine;

(7) We did not intrude on the statutory rights of States to fashion their SIPs;

(8) We properly included South Carolina in the SIP Call; and

(9) We did not violate the Regulatory Flexibility Act.

However, the Court ruled against us on four specific issues. Specifically, the Court:

(1) Remanded and vacated the inclusion of Wisconsin because emissions from Wisconsin did not show a significant contribution to downwind nonattainment of the NAAQS;

(2) remanded and vacated the inclusion of Georgia and Missouri in light of the Ozone Transport Assessment Group (OTAG) conclusions that emissions from coarse grid portions did not merit controls;

(3) held that we failed to provide adequate notice of the change in the definition of EGU as applied to cogeneration units that sell electricity to the grid in amounts of either one-third or less of their potential electrical output capacity or 25 megawatts or less per year (small cogenerators); and

(4) held that we failed to provide adequate notice of the change in control level assumed for large stationary internal combustion engines.

The Court remanded the last two matters for further rulemaking.

5. How Did the Court Respond to EPA's Request to Lift the Stay of the 1-Hour SIP Submission Schedule?

On April 11, 2000, we filed a motion with the Court to lift the stay of the SIP submission date. We requested that the Court lift the stay as of April 27, 2000.

We recognized, however, that at the time the stay was issued, States had approximately 4 months (128 days) remaining to submit SIPs. Therefore, our motion to lift the stay indicated that we would allow States until September 1, 2000 to submit SIPs addressing the SIP Call and provided that States could submit only those portions of the SIP Call upheld by the Court (Phase I SIPs). The existing record in the NO_x SIP Call rulemaking provides a breakdown of the data on which the original budgets were developed sufficient to allow States to develop Phase I SIPs. However, we reviewed the record and for the convenience of the States and in letters to the State Governors and State Air Directors, dated April 11, 2000, we identified an adjusted Phase I NO_x budget for each State for which the SIP Call applies.

On June 22, 2000, the Court granted our request in part. The Court ordered that we allow the States 128 days from the June 22, 2000 date of the order to submit their SIPs. Therefore, SIPs in response to the NO_x SIP Call were due October 30, 2000.¹

In our motion to lift the stay, we informed the Court that the Agency asked 19 States and the District of Columbia, in letters to the Governors dated April 11, 2000, to submit SIPs subject to the Court's response to our motion to lift the stay. The 19 States are: Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia and West Virginia. Rather than submit a SIP that fully meets the NO_x SIP Call, these 19 States and the District of Columbia may choose to submit SIPs that cover all of the NO_x SIP Call requirements except for a small part of the EGU portion and large internal combustion engine portion of the budget. We refer to these partial plans that address the portion of the rule unaffected by the Court's remand as the "Phase I" SIPs.² Because the SIP Call was vacated with respect to Georgia, Missouri, and Wisconsin, those States were not obligated to submit any SIPs by October 30, 2000. The SIPs that cover the portion of the rule affected by the Court decision—and the subject of today's action—are termed, the "Phase II" SIPs.

¹ October 30, 2000 was the first business day following the expiration of the 128-day period.

² The Phase I emissions reductions should achieve approximately 90 percent of the total emissions reductions called for by the NO_x SIP Call.

6. What Was the Court's Order for the Compliance Date?

On August 30, 2000, the D.C. Circuit ordered that the court order filed on June 22, 2000 be amended to extend the deadline for full implementation of the NO_x SIP Call from May 1, 2003 to May 31, 2004. This extension was calculated in the same manner used by the Court in extending the deadline for SIP submissions, so that sources in States subject to the NO_x SIP Call would have 1,309 days for implementing the SIP as provided in the original NO_x SIP Call. This action was in response to a motion filed by the industry/labor petitioners.

C. What Was the Section 126 Rule?

We have also addressed interstate NO_x transport in a final rule (Section 126 Rule) that responds to petitions submitted by eight Northeast States under section 126 of the CAA (65 FR 2674, January 18, 2000) (the Section 126 Rule). In this rule, we made findings that 392 sources in 12 States and the District of Columbia are significantly contributing to 1-hour ozone nonattainment problems in the petitioning States of Connecticut, Massachusetts, New York, and Pennsylvania. The upwind States with sources affected by the Section 126 Rule are: Delaware, Indiana, Kentucky, Maryland, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia.³ The types of sources affected are large EGUs⁴ and large industrial boilers and turbines (non-EGUs). The rule established Federal NO_x emissions limits for the affected sources and set a May 1, 2003 compliance date.⁵ We promulgated a NO_x cap-and-trade program as the control remedy. All of the sources affected by this Section 126 Rule are located in States that are subject to the NO_x SIP Call.

The Section 126 Rule includes a provision to coordinate the Section 126 Rule with State actions under the NO_x SIP Call. This provision automatically withdraws the Section 126 findings and control requirements for sources in a State if the State submits, and we give final approval to, a SIP revision meeting the full NO_x SIP Call requirements, including the originally promulgated

³ For Indiana, Kentucky, Michigan, and New York, only sources in portions of the State are affected by that rule.

⁴ The Section 126 Rule uses the same definition of EGUs that we are proposing for the NO_x SIP Call in today's action.

⁵ As discussed in the next section, on August 24, 2001, the D.C. Circuit suspended the compliance date for EGUs while we resolve a remanded issue related to EGU growth factors.

May 1, 2003 compliance deadline (40 CFR 52.34(i)). While the Court has changed the NO_x SIP Call compliance deadline to May 31, 2004, we promulgated and justified the automatic withdrawal provision based on approval of a SIP with a May 1, 2003 compliance date (64 FR 28274–76, May 25, 1999; 65 FR 2679–2684, January 18, 2000). Thus, the automatic withdrawal provision in the Section 126 Rule does not address any other circumstances. Additional issues regarding the interaction of the Section 126 Rule and SIPs under the NO_x SIP Call may be addressed through future rulemaking.⁶

1. What Was the D.C. Circuit Decision on the Section 126 Rule?

On May 15, 2001, a panel of the D.C. Circuit largely upheld the Section 126 Rule in *Appalachian Power v. EPA*, 249 F.3d 1032 (2001). (*Appalachian Power*—Section 126). However, the Court remanded to us the method for determining growth to the year 2007 in heat input utilization by EGUs. This calculation is important for determining the requirements for EGUs. In addition, the Court vacated and remanded to us the portion of the rule classifying as EGUs small cogenerators (cogeneration units that sell electricity to the grid in amounts of either one-third or less of their potential electrical output capacity or 25 megawatts or less per year). Although in the *Michigan* decision (concerning the NO_x SIP Call rulemaking), the D.C. Circuit remanded this issue on the procedural ground of inadequate notice, in the *Appalachian Power*—Section 126 decision, the Court vacated and remanded on grounds that we did not justify our classification of small cogenerators as EGUs. In an order dated on August 24, 2001, the D.C. Circuit issued an order in the *Appalachian Power*—Section 126 Case, remanding the Section 126 Rule with regard to the classification of any cogenerators as EGUs and tolling (suspending) the date for EGUs to implement controls pending EPA's resolution of the EGU growth factor remand.

During the course of the litigation on the Section 126 Rule, individual sources or groups of sources challenged the rule on grounds that our allocations of allowances were improper. We settled these cases with several of those sources

⁶ A memo dated January 16, 2002 from John Seitz, Director, Office of Air Quality Planning and Standards to the EPA Regional Air Division Directors, indicated our intent to reset the compliance date for EGUs and non-EGUs to May 31, 2004, subject to our response to the growth factor remand.

with our agreement to propose a rulemaking revising the allocations.

D. What Were the Technical Amendments Rulemakings?

When we promulgated the NO_x SIP Call Rule, we decided to reopen public comment on the source-specific data used to establish each State's 2007 EGU budget (63 FR 57427, October 28, 1998). We extended this comment period by notice dated December 24, 1998 (63 FR 71220). We indicated that we would entertain requests to correct the 2007 EGU budgets to take into account errors or updates in some of the underlying emissions inventory and certain other specified data.

Following our review of the comments received, we published a rulemaking providing Technical Amendments to, among other things, the 2007 EGU budgets (64 FR 26298, May 14, 1999). In response to additional comments received, we published a second rulemaking, making additional Technical Amendments to the 2007 EGU budgets (65 FR 11222, March 2, 2000). (These two rulemakings may be referred to, together, as the Technical Amendments Rule.) In promulgating the Technical Amendments Rule, we kept intact our method for determining the budgets, including the methods for determining growth to 2007. We simply made adjustments for particular sources concerning whether they were large EGUs or non-EGUs, and adjustments in the appropriate baselines for those sources.

1. What Was the D.C. Circuit Decision on the Technical Amendments?

On June 8, 2001, the D.C. Circuit issued its opinion in a case involving the Technical Amendments. *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001). (*Appalachian Power-Technical Amendments*). Although largely upholding the Technical Amendments, the Court, as in the *Appalachian Power-Section 126* case, remanded the EGU growth factors and vacated and remanded the portion of the rule classifying small cogenerators as EGUs. In addition, in the *Appalachian Power-Technical Amendments* decision, the Court remanded and vacated the budget under the Technical Amendments Rule for Missouri under both the 1-hour and 8-hour ozone NAAQS.

E. What is the Overview of D.C. Circuit Remands/Vacatures?

In summary, the D.C. Circuit decisions described above revised or remanded/vacated portions of the NO_x

SIP Call, Section 126, and Technical Amendments rulemakings as follows:

- (1) Remanded the portion of the NO_x SIP Call requirements based on the assumed control level for stationary internal combustion engines;
- (2) Delayed the NO_x SIP Call SIP submittal date to October 30, 2000. *Michigan* (NO_x SIP Call);
- (3) Delayed the date for implementation of the NO_x SIP Call reductions to May 31, 2004. *Michigan*;
- (4) Remanded and vacated the inclusion of Wisconsin. *Michigan*;
- (5) Remanded and vacated the NO_x SIP Call budgets for Georgia and Missouri under the 1-hour ozone NAAQS. *Michigan*;
- (6) Remanded and vacated the NO_x SIP Call budget, as revised by the Technical Amendments, for Missouri, under the 1-hour and 8-hour ozone NAAQS. *Appalachian Power-Technical Amendments*;
- (7) Remanded the EGU growth formula. *Appalachian Power-Section 126*, *Appalachian Power-Technical Amendments*;
- (8) Remanded, or remanded and vacated, the classification of small cogenerators as EGUs. *Michigan*, *Appalachian Power-Section 126*, *Appalachian Power-Technical Amendments*; and
- (9) Remanded the classification of any cogenerators as EGUs. *Appalachian Power-Section 126*.

F. What Is Our Process for Addressing the Remands/Vacatures?

To date, we have responded to these decisions as follows:

In letters dated April 11, 2000, to the Governors of the affected States, we advised that the States may submit by October 30, 2000 Phase I SIPs that include a budget allowing more emissions than under the NO_x SIP Call Rule. This budget need not include any reductions from a set of EGUs that we believe includes all of the small cogenerators or reductions from internal combustion engines. In addition, we advised Wisconsin that it need not submit a NO_x SIP Call SIP revision. Further, we advised Georgia and Missouri that they did not have to submit NO_x SIP Call SIPs at this time. We advised Alabama and Michigan that although the Court upheld the NO_x SIP Call for their entire States, the reasoning of the Court's opinion concerning excluding emissions from the coarse-grid portion of their States. We also stated that if they wanted the coarse-grid portion of their States excluded, they could submit a Phase I budget addressing sources in only the fine-grid

portion of the State. All States were further advised that the remanded issues would be addressed in a future rulemaking.

Many States did not officially submit complete SIPs as required by October 30, 2000. By notice dated December 26, 2000 (65 FR 81366), we issued findings of failure to submit. A challenge to those findings has been filed in the D.C. Circuit.

Today's action sets forth our proposal for the second phase or Phase II of the NO_x SIP Call by addressing the classification of cogenerators as EGUs, and adjusting the budgets accordingly; the control level for large internal combustion engines; the date by which States must submit a Phase II budget, and Georgia and Missouri must submit SIPs to meet the full NO_x SIP Call budget; the compliance dates for States to meet their Phase II budgets, and for Georgia and Missouri to meet the full NO_x SIP Call budget; and the emissions budgets for Georgia and Missouri, which are proposed to be based on only the fine-grid portion of these States. In addition, we propose to modify the budgets for Alabama and Michigan based on inclusion of only the fine grid portion of those States. Further, we are proposing to exclude Wisconsin from the NO_x SIP Call.

Any additional emissions reductions required as a result of a final rulemaking on this proposal will be reflected in the Phase II portion of the State's emissions budget. The emissions reductions required in Phase II are relatively small, representing less than 10 percent of total reductions required by the SIP Call. The due date for the SIPs meeting the resulting State emissions budgets ("Phase II" SIPs) and partial State budgets for Georgia and Missouri is discussed below in sections II.J and II.K. The proposed changes to the State's emissions budgets are discussed in section II.E.

As noted above, today's action proposes to continue the classification of cogenerators as EGUs, and presents support for that classification.

In addition, in today's action, we request that cogenerators that would be subject to classification as EGUs in the NO_x SIP Call and the Section 126 Rule identify themselves as cogenerators and, if applicable, small generators, so that EPA and the States will be able to clarify that portion of their NO_x inventory.

Today's action also includes technical housekeeping by making minor revisions to the NO_x SIP Call definition of EGUs and non-EGUs to make those definitions consistent with the definitions of EGUs and non-EGUs in

the Section 126 Rule. Today's proposal retains those definitions in the Section 126 Rule.

Today's proposal does not address the EGU growth remand. We intend to act on that issue separately. If any additional revisions to budgets are necessary, they will be addressed in that action. By notice dated August 3, 2001, we published our preliminary response to the remand in which we indicated that we believed our method for estimating growth in emissions from EGUs was reasonable, we notified the public that we were examining additional data, which we put in the docket, and invited comment on that data (66 FR 40609).

Today's proposal does not address NO_x SIP Call issues related to the 8-hour NAAQS, and we have no plans in the immediate future to announce a specific process for doing so. We have stayed the findings in the NO_x SIP Call based on the 8-hour NAAQS, and are continuing to conduct rulemaking concerning the 8-hour NAAQS.

II. What Is the Scope of This Proposal?

In this action, we are soliciting comment on only the specific changes the Agency is proposing in response to the Court's rulings on the NO_x SIP Call, Section 126, and Technical Amendments rulemakings. We are not reopening the remainder of those three rulemakings for public comment and reconsideration. Specifically, we are soliciting comment on the following:

(1) Certain aspects of the definitions of EGU and non-EGU. We are not proposing to change the manner in which the budgets are calculated for EGUs and non-EGU boilers and turbines under the final NO_x SIP Call, the Technical Amendments, and the Section 126 Rules. We also are not proposing to change the definitions of EGU and non-EGU used in the Section 126 Rules (e.g., in the allocation methodology). We are addressing the issues concerning the definition of EGU as applied to certain cogeneration units by proposing to retain the EGU definition in the Section 126 Rule and to retain the basic EGU definition used in the NO_x SIP Call Rule with minor, technical revisions to make it consistent with the definition in the Section 126 Rule.

As part of our treatment of the cogenerator issues, we are increasing the required level of emissions reductions, and thus reducing the budgets, to require reductions from a set of units—termed the non-acid rain units—that we excluded as part of Phase I on grounds that they include small cogenerators.

By way of background, in light of the *Michigan* decision concerning the NO_x SIP Call, we adopted the view that the States should proceed with developing and submitting to us their SIP controls at the level that was undisturbed by the Court's ruling. Accordingly, we determined that the SIPs required to be submitted on the schedule established by the Court (October 30, 2000), which we have termed the Phase I SIPs, should reflect all reductions required under the NO_x SIP Call rulemaking except those reductions attributable to parts of the rule that the Court remanded or vacated, including small cogenerators. However, at the time we adopted this position, we were uncertain as to which units constituted small cogenerators, and the total emissions attributable to small cogenerators.

Even so, we were aware that although most of the EGUs that were subject to the NO_x SIP Call were also controlled under the Acid Rain Program, none of the small cogenerators were controlled under the Acid Rain Program. (Units controlled under the Acid Rain Program may be termed "acid rain units," and those not so controlled may be termed "non-acid rain units.") Accordingly, we erred on the side of caution by authorizing States, in their Phase I SIPs, to exclude the required reductions from all non-acid rain units. As a result, the Phase I SIPs may provide for fewer required reductions and higher budgets than would have been required if EPA had been able to determine which of the non-acid rain units should have been categorized as small cogenerators.

In today's action, we are proposing to continue the classification of certain cogenerators, including small cogenerators, as EGUs. As a result, it makes sense to require States to include in their Phase II SIPs the anticipated emissions reductions from non-acid rain units. This approach will have the effect of increasing the SIPs' required level of reductions and decreasing the budgets.

In the final rule, we will indicate the sources we believe should be classified as small cogenerators. It is conceivable that this process of identifying sources will lead us to conclude that some of the non-acid rain units should not be included as EGUs and, therefore, that further adjustments to the budgets of particular States may be necessary. In this case, we will make those further adjustments in the final rule. Because we anticipate that only a small number of sources currently meet the definition of small cogenerators, we expect few, if any, revisions to the budgets resulting from today's proposal, and if any revisions do result, we anticipate that

they will be very small and will not affect most States.

We are proposing minor, technical changes to the EGU definition in the NO_x SIP Call to make it consistent with the definition of EGU used in the Section 126 Rule. Since the EGU definition establishes the dividing line between the EGU and non-EGU categories, the proposed changes to the EGU definition result in corresponding proposed changes to the non-EGU definition in the NO_x SIP Call, which make it consistent with the non-EGU definition in the Section 126 Rule. Today's action concerning these definitions does not propose any specific revisions to the budgets established under the final NO_x SIP Call and the Technical Amendments.

(2) The control level assumed for large stationary internal combustion engines in the NO_x SIP Call. We are proposing a range of possible control levels (82 to 91 percent) to the internal combustion engine portion of the budget.

(3) Partial-State budgets for Georgia, Missouri, Alabama, and Michigan in the NO_x SIP Call.

(4) Changes to the statewide NO_x budgets in the NO_x SIP Call to reflect the appropriate increments of emissions reductions that States should be required to achieve with respect to the three remanded issues (discussed above in numbers 1, 2, 3).

(5) A range of SIP submission dates for the 19 States and the District of Columbia to address the Phase II portion of the budget, and for Georgia and Missouri to submit full SIPs meeting the NO_x SIP Call: 6 months through 1 year from final promulgation of this rulemaking, but no later than April 1, 2003.

(6) The compliance date of May 31, 2004 under the NO_x SIP Call for all sources except those in Georgia and Missouri, and the compliance date of May 1, 2005 for sources in Georgia and Missouri.

(7) The exclusion of Wisconsin from the NO_x SIP Call.

A. How Do We Treat Cogenerators and Non-Acid Rain Units?

Under the NO_x SIP Call, the amount of a State's significant contribution to nonattainment in another State included the amount of highly cost-effective reductions that could be achieved for large EGUs and large non-EGUs in the State. No reductions for small EGUs or small non-EGUs were included. We determined that reductions by large EGUs to 0.15 lb NO_x/mmBtu and by large non-EGUs to 60 percent of uncontrolled emissions are highly cost effective. In developing the States'

budgets, we applied definitions of EGU and non-EGU and determined which sources were large EGUs or large non-EGUs.

In its *Michigan* decision, the D.C. Circuit upheld this approach, but determined that we did not provide sufficient notice and opportunity to comment for one aspect of our definition of EGU and remanded the rulemaking to us for further consideration. Specifically, a petitioner claimed, and the Court agreed, that “EPA did not provide sufficient notice and opportunity for comment on [the] revision” of the EGU definition to remove the exclusion, from the “EGU” category, of cogeneration units with annual electricity sales of one-third or less of the units’ potential electrical output capacity, or 25 megawatts (MWe) or less. (A cogeneration unit may be owned by a utility or a non-utility and is a unit that uses the same energy to produce both thermal energy (heat or steam) that is used for industrial, commercial, or heating or cooling purposes; and electricity.) *Michigan v. EPA*, 213 F.3d at 691–92. According to the Court, “two months after the promulgation of the [NO_x SIP Call] rule, EPA redefined an EGU as a unit that serves a ‘large’ generator (greater than 25 MWe) that sells electricity.” *Id.* Application of the exclusion for cogeneration units from the definition of EGU would result in treating as non-EGUs those cogeneration units meeting the criteria for the exclusion and treating as EGUs those cogeneration units not meeting the exclusion criteria. See Brief of Petitioner Council of Industrial Boiler Owners (CIBO) at 4 (submitted in *Michigan*).

The petitioner argued that, under the NO_x SIP Call, we should apply the criteria for excluding cogeneration units from treatment as utility units. According to the petitioner, the exclusion criteria had been established under the regulations implementing new source performance standards and under title IV of the CAA and the regulations implementing the Acid Rain Program under title IV. The petitioner also stated that section 112 of the CAA defines “electricity steam generating unit” to exclude cogeneration units meeting the same thresholds.

The Court found that, in failing to apply the exclusion criteria for cogeneration units, EPA “was departing from the definition of EGUs as used in prior regulatory contexts” and “was not explicit about the departure from the prior practice until two months after the rule was promulgated.” *Michigan*, 213 F.3d at 692. Further, the Court found that:

it is an exaggeration to state that some general “theme” of the regulatory consequences of deregulation of the utility industry throughout rulemaking meant that EPA’s last-minute revision of the definition of EGU should have been anticipated by industrial boilers as a “logical outgrowth” of EPA’s earlier statements.

Id. The Court therefore remanded the rulemaking to us for further consideration of this issue.

In its decisions on the Section 126 Rule and the Technical Amendments Rulemakings, the D.C. Circuit, after considering the merits of the issue, vacated and remanded our classification of small cogenerators as EGUs. The Court held that we had failed to justify this classification and base it on adequate record support comparing the NO_x reduction costs of cogenerators to those of other EGUs or demonstrating that there is no relevant physical or technological difference between small cogenerators and utilities. In the Section 126 decision, the Court also remanded our classification of any cogenerators as EGUs.

We discuss below the historical definition of utility unit, the definition of EGU in the NO_x SIP Call and the Section 126 rulemaking, today’s proposed rule addressing certain aspects of the EGU definition, and the rationale for the proposed rule. As discussed below, in prior regulatory programs, we have sought to distinguish between utilities (regulated monopolies in the business of producing and selling electricity) and non-utilities. In making this distinction, we applied the “one third potential electrical output capacity/25 MWe sales criteria.” These criteria defined a non-utility unit as a unit producing electricity for annual sales in an amount equal to the lesser of: (i) one-third or less of a unit’s potential electrical output capacity; or (ii) 25 MWe or less. Note that the criteria did not always apply only to cogeneration units and did not uniformly result in “less” regulation for sources meeting the criteria. With the development of competitive markets for electricity generation and sale, we believe that these criteria no longer distinguish between units in the business of producing and selling electricity (*i.e.*, EGUs) and non-EGUs. In addition, there are no relevant differences between the way cogenerating units and non-cogenerating units are built and operated that justify continuing to use these criteria or that affect the general ability of cogenerating units to control NO_x. We are today proposing to retain the basic definition of EGU in the NO_x SIP Call and the Section 126 Rule and to continue to apply it to cogenerators.

1. What Is the Historical Definition of Utility Unit?

In prior regulatory programs, we have used variations of the one-third potential electrical output capacity/25 MWe sales criteria to distinguish between utilities and non-utilities. The Agency began using these criteria in 1978, in 40 CFR part 60, subpart Da. Subpart Da established new source performance standards for “electric utility steam generating units” capable of combusting more than 250 mmBtu/hr of fossil fuel. “Electric utility steam generating unit” was defined as a unit “constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MWe electrical output to any utility power distribution system for sale” (40 CFR 60.41a). In that case, the criteria were not used to exempt units entirely from new source performance standards. Rather, the criteria were used to classify units capable of combusting more than 250 mmBtu/hr of fossil fuel as either “electric utility steam generating units” subject to the requirements under subpart Da or to classify them as non-utility “steam generating units” which, depending on the date of construction, continued to be subject to the requirements for “Fossil-Fuel-Fired Steam Generators” under subpart D or subsequently became subject to the requirements for “Industrial-Commercial-Institutional Steam Generating Units” under subpart Db. See 40 CFR 60.41a (definitions of “steam generating unit” and “electric utility steam generating unit”), 60.40b(a) (stating that subpart Db applies to “steam generating units” with heat input capacity of more than 100 mmBtu/hr), and 60.40b(e) (stating that “electric steam generating units” subject to subpart Da are not subject to subpart Db). Some of the requirements (*e.g.*, the emission limits for particulate matter) in subpart D or Db were less stringent than those in subpart Da. These criteria applied to all steam generating units, not just cogeneration facilities.

We explained that we were distinguishing, in subpart Da, between “electric utility steam generating units” and “industrial boilers” because “there are significant differences between the economic structure of utilities and the industrial sector” (44 FR 33580, 33589; June 11, 1979). The one-third potential electrical output capacity/25 MWe sales criteria were used as a proxy for utility vs. industrial/commercial/institutional (*i.e.*, non-utility) ownership of the units. We believed that a unit involved in electricity sales small enough to be at or below the levels in the sales criteria was

owned by a company whose business was other than electric generation and transmission and/or distribution and so was in the industrial, not the utility, sector. We stated that, “[s]ince most industrial cogeneration units are expected to be less than 25 MWe electrical output capacity, few, if any, new industrial cogeneration units will be covered by these [subpart Da] standards. The standards do cover large electric utility cogeneration facilities because such units are fundamentally electric utility steam generating units.” *Id.*

Our approach in subpart Da reflected the fact that, since before the 1970’s and into the 1980’s, private or public entities in the business of electric generation and transmission and/or distribution (*i.e.*, utilities) produced almost all of the electricity generated or sold in the U.S. In addition, utilities were regulated monopolies with designated service areas. In contrast, non-utilities sold relatively small amounts of electricity, played an insignificant role in the business of electric generation and sales, and were not regulated monopolies. *See The Changing Structure of the Electric Power Industry: An Update*, Energy Information Administration, December 1996 at 5–7, 9, and 111.

A similar type of distinction between utility and non-utility units (using the one-third potential electrical output capacity/25 MWe sales criteria) continued under the CAA Amendments of 1990, in both title IV and section 112 of title I, but was applied only to cogeneration units. As noted above, a cogeneration unit is a unit that uses the same energy to produce both thermal energy (heat or steam) that is used for industrial, commercial, or heating or cooling purposes; and electricity. Title IV established the Acid Rain Program whose requirements apply to “utility units.” Section 402(17)(C) excludes a cogeneration unit from the definition of “utility unit” unless the unit “is constructed for the purpose of supplying, or commences construction after the date of enactment of [title IV] and supplies, more than one-third of its potential electric output capacity and more than 25 MWe electrical output to any utility power distribution system for sale.” 42 U.S.C. 7651a(17)(C). *See also* 40 CFR 72.6(b)(4). Non-cogeneration units involved in electricity sales could be utility units regardless of whether the non-cogeneration units met one-third potential electrical output capacity/25 MWe criteria.

Finally, section 112 of the CAA, which addresses hazardous air pollutants, excludes from the definition of “electric utility steam generating

unit” cogeneration units (but not non-cogeneration units) that meet the one-third potential electrical output capacity/25 MWe sales criteria (42 U.S.C. 7412(a)(8)). Under section 112, emission limits established by the Administrator for hazardous air pollutants listed in section 112(b) apply generally to stationary sources. However, such emission limits will apply to “electric utility steam generating units” only if the Administrator makes a specific finding after considering the results of a required study. In particular, section 112(n)(1)(A) requires the Administrator to study “the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units” of the listed pollutants “after imposition of the requirements of [the Clean Air Act]” (42 U.S.C. 7412(n)(1)(A)). That section further provides that the Administrator “shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study.” *Id.* Thus, in general, cogeneration units excluded from the definition of “electric utility steam generating unit” are subject by statute—without any study or finding by the Administrator—to the requirements for regulation of hazardous air pollutants under section 112, while cogeneration units included in that definition only become subject to section 112 based on the Administrator’s study and finding supporting regulation of units meeting that definition. (*See* 64 FR 63025, 63030; November 18, 1999) (Table 1, showing schedule for promulgation of standards for sources (*i.e.*, industrial boilers and institutional/commercial boilers) of hazardous air pollutants). *See also* 65 FR 79825, December 20, 2001 [Administrator’s finding under section 112(n)(1)(A)].

In summary, the above-described provisions vary as to both: (1) the application of the one-third potential electrical output capacity/25 MWe sales criteria, which apply to all units in some provisions and only to cogeneration units in other provisions; and (2) the consequences of a unit meeting the criteria, which results in the unit being subject to “more” regulation under some provisions and “less” or “later” regulation under other provisions.

2. What Is the NO_x SIP Call Definition of EGU?

In the NO_x SIP Call rulemaking, we continued the general approach, described above, of distinguishing

between units in the electric generation business (here, EGUs) and units in the industrial sector (here, non-EGUs). However, we adopted a different method of defining which units are in the electric generation business by changing the definition of EGU. We defined EGU by applying to all fossil fuel-fired units the methodology described in detail below and did not apply to cogeneration units the one-third potential electrical output/25 MWe sales criteria of the “cogeneration exclusion.” Under the methodology applied to all units, after determining the date on which a unit commenced operation (*e.g.*, commenced combustion of fuel), we determined whether the unit should be classified as an EGU or a non-EGU by applying the appropriate criteria depending on the commencement of operation date. Then we classified the unit as a large or small EGU or a large or small non-EGU.

Specifically, we noted in a December 24, 1998 supplemental action that the NO_x SIP Call used the following methodology⁷ for classifying all units (including cogeneration units) in the States subject to the NO_x SIP Call as EGUs or non-EGUs (63 FR 71223, December 24, 1998). We applied this methodology to cogeneration units and not the one-third potential electrical output capacity/25 MWe sales criteria of the “cogeneration exclusion.” *See id.*

(a)(i) For units that commenced operation before January 1, 1996, we classified as an EGU any unit that sells any electricity for sale under firm contract to the electric grid. In the December 24, 1998 supplemental action, we did not define the term “electricity for sale under firm contract to the electric grid.”⁸

(ii) For units that commenced operation before January 1, 1996, we classified as a non-EGU any unit that did not produce electricity for sale under firm contract to the grid.

⁷ The numbering of the steps in the methodology is added for the convenience of the reader.

⁸ For purposes of the January 18, 2000 Section 126 final rule, we defined “electricity for sale under firm contract to the electric grid” as where “the capacity involved is intended to be available at all times during the period covered by the guaranteed commitment to deliver, even under adverse conditions” (65 FR 2694 and 2731). As discussed below, we propose to adopt in today’s proposed rule the definition for the term provided in the January 18, 2000 Section 126 final rule. This definition was based on language from the *Glossary of Electric Utility Terms*, Edison Electric Institute, Publication No. 70–40 (definition of “firm” power). Generally, capacity “under firm contract to the electricity grid” is included on Energy Information Administration (EIA) form 860A (called EIA form 860 before 1998) or is reported as capacity projected for summer or winter peak periods on EIA form 411 (Item 2.1 or 2.2, line 10).

(iii) For units that commenced operation on or after January 1, 1996, we classified as an EGU any unit that serves a generator that produces any amount of electricity for sale, except as provided in paragraph (a)(iv) below.

(iv) For units that commenced operation on or after January 1, 1996, we classified as non-EGUs the following units: any unit not serving a generator that produces electricity for sale; or any unit serving a generator that has a nameplate capacity equal to or less than 25 MWe, that produces electricity for sale, and that has the potential to use 50 percent or less of the usable energy of the boiler or turbine. In the December 24, 1998 supplemental action, we did not define the term "usable energy."⁹

(b)(i) For a unit classified [under paragraph (a)(i) or (a)(iii) above] as an EGU, we then classified it as a small or large EGU. An EGU serving a generator with a nameplate capacity greater than 25 MWe is a large EGU. An EGU serving a generator with a nameplate capacity equal to or less than 25 MWe is a small EGU. In the December 24, 1998 supplemental action, we did not expressly define the term "nameplate capacity."¹⁰

(ii) For a unit classified [under paragraph (a)(ii) or (a)(iv) above] as a non-EGU, we then classified it as a small or large non-EGU. A non-EGU with a maximum design heat input greater than 250 mmBtu/hour is a large non-EGU. A non-EGU with a maximum design heat input equal to or less than 250 mmBtu/hour is a small non-EGU. *But see* 63 FR 71220, 71224, December 24, 1998 (explaining procedures used if data on boiler heat input capacity were

not available). In the December 24, 1998 supplemental action, we did not expressly define the term "maximum design heat input."¹¹

As stated previously, we defined the term "EGU" by applying to all units, including cogeneration units, the methodology in paragraphs (a)(i) and (a)(iii) above and used the methodology in paragraphs (a)(ii) and (a)(iv) above to define units as non-EGUs. We did not use, for cogeneration units, the one-third potential electrical output capacity/25 MWe sales criteria in the "cogeneration exclusion." It was the fact that we failed to apply this particular exclusion for cogenerators that petitioners challenged in *Michigan*.

3. What Revisions Are Being Made to the Definition of EGU in the NO_x SIP Call and the Section 126 Rule?

In today's rulemaking, we are addressing three aspects of the EGU definition. First, for purposes of the NO_x SIP Call and the Section 126 Rule, we are proposing not to apply to cogeneration units the one-third potential electrical output/25 MWe sales criteria of the "cogeneration exclusion" in classifying the units as EGUs or non-EGUs. Under today's proposal, we would apply to all units, including cogeneration units, the basic approach used in the NO_x SIP Call Rule [described in the December 24, 1998 supplemental action (63 FR 71233)] and the approach in the Section 126 Rule for such classification. We are proposing to change the categorization of units under the NO_x SIP Call definition of EGU (set forth in section II.A.2 above) as units commencing operation before January 1, 1996 or units commencing operation on or after January 1, 1996. Under today's proposal, we would instead categorize units as units commencing operation before January 1, 1997, units commencing operation on or after January 1, 1997 and before January 1, 1999, or units commencing operation on or after January 1, 1999 for purposes of classifying units as EGUs or non-EGUs. These new categories based on commencement of unit operation are the same as the categories adopted in the January 18, 2000 Section 126 final rule and, under today's proposal, units are classified the same way as in the

January 18, 2000 Section 126 final rule. We are also proposing to adopt the term "potential electrical output capacity" and the definitions of the terms "electricity for sale under firm contract to the electric grid," "potential electrical output capacity," "nameplate capacity," and "maximum design heat input" used in the January 18, 2000 Section 126 Rule. As noted above, these changes to conform to the January 18, 2000 Section 126 Rule do not affect the budgets that were established under the final NO_x SIP Call and the Technical Amendments.

The only aspects of the EGU definition that we are addressing in today's rulemaking are: the use, for cogeneration units, of the generally applicable methodology for EGU/non-EGU classification rather than the "cogeneration exclusion" criteria; the changes in categories of units based on commencement of operation date; and the adoption of a new term and new definitions of terms. The changes to aspects of the EGU definition result in corresponding changes to aspects of the non-EGU definition. These aspects of the EGU and non-EGU definitions are discussed in detail below and are the only issues related to EGU and non-EGU definition on which we are requesting comment today. We are not reconsidering, and are not taking comment on, any other aspects of the EGU or non-EGU definitions.

a. Use of the same EGU/non-EGU classification methodology for cogeneration units as for all other units

We believe that it is appropriate to apply to cogeneration units the same methodology for EGU/non-EGU classification as applied to all other units and not to apply the one-third electrical potential output capacity/25 MWe sales criteria in order to classify cogeneration units as EGUs or non-EGUs. This is appropriate because the reasons for distinguishing between utilities and non-utilities no longer exist in light of the dramatic changes that have occurred in the electric power industry since 1990 due to the emergence of competitive markets for electricity generation in which non-utility generators compete to an increasingly significant extent with utilities. As a result, the historical difference between utilities and non-utilities is increasingly blurred and irrelevant in determining what units are involved in, and should be classified as, producing and selling electricity. In addition, there are no physical, operational, or technological differences that warrant use of a different EGU/non-EGU classification methodology for cogeneration units than for other units.

⁹ For purposes of the January 18, 2000 Section 126 final rule, we used the more familiar term "potential electrical output capacity," rather than the term "usable energy." We defined "potential electrical output" using the long-standing definition of the latter term as "33 percent of a unit's maximum design heat input" (65 FR 2694 and 2731). As discussed below, we propose to adopt in today's proposed rule the same term and definition used in the January 18, 2000 Section 126 final rule. "Potential electrical output capacity" is used, and defined in this way, in part 72 of the Acid Rain Program regulations (40 CFR 72.2 and 40 CFR part 72, appendix D) and in the new source performance standards (40 CFR 60.41a).

¹⁰ In the part 96 model rule in the NO_x SIP Call (63 FR 57356, 57514-38) and subsequently for purposes of the January 18, 2000 Section 126 final rule (65 FR 2729 and 2731), we adopted the long-standing definition of "nameplate capacity" as "the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards." As discussed below, we propose to adopt in today's proposed rule the same definition used in the January 18, 2000 Section 126 final rule. The term is defined in this way in part 72 of the Acid Rain Program regulations (40 CFR 72.2).

¹¹ In the part 96 model rule in the NO_x SIP Call (63 FR 57516) and subsequently for purposes of the January 18, 2000 Section 126 final rule (65 FR 2729); we defined "maximum design heat input" as "the ability of a unit to combust a stated maximum amount of fuel per hour (in mmBtu/hr) on a steady state basis, as determined by the physical design and physical characteristics of the unit." As discussed below, we propose to adopt in today's proposed rule the same definition used in the January 18, 2000 Section 126 final rule.

i. Distinction between units in the electric generation business and units in the industrial sector

As discussed above, distinguishing between units producing electricity for sale and units producing electricity for internal use or producing steam is a long-standing approach in setting emission limits. In the NO_x SIP Call, the Section 126 Rule, and today's proposal, we continue to take this general approach by setting different emission limits for units producing electricity for sale (EGUs) and units that do not produce electricity for sale (non-EGUs).

We are retaining this general approach for several reasons. First, this is a long-standing approach, and few, if any, commenters in the NO_x SIP Call and Section 126 rulemakings supported abandoning the distinction between units in the electric generation business and units in the industrial sector. Second, after organizing the units into these two categories, we found that there was some difference in the average compliance costs of the two groups. See 65 FR 2677 (estimating average large EGU control costs as \$1,432 per ton in 1990 dollars in 1997 and average large non-EGU costs as \$1,589 per ton). Third, this approach tends to result in units that directly compete in the electric generation business having to meet the same emission limit, and that result seems reasonable.

While we are using in today's proposal the long-standing approach of distinguishing between units in the electric generation business and units in the industrial sector, we are proposing to use the revised definition of EGU (i.e., the EGU definition in the Section 126 Rule) in order to reflect recent changes in the electric generation business and the types of units that currently participate in that business. As discussed below, that business is no longer confined essentially to utilities, and non-utilities are playing an increasingly significant role. We are proposing to define EGU in a way that includes both utilities and non-utilities that are in that business and to not apply criteria to cogeneration units (i.e., the one third potential electrical output capacity/25 MWe sales criteria) that tend to exclude non-utilities from the EGU category.

ii. Effect of electricity competition and electric power restructuring on distinction between utilities and non-utilities

The development of competitive electricity markets is ongoing:

Propelled by events of the recent past, the electric power industry is currently in the midst of changing from a vertically integrated and regulated monopoly to a functionally

unbundled industry with a competitive market for power generation. Advances in power generation technology, perceived inefficiencies in the industry, large variations in regional electricity prices, and the trend to competitive markets in other regulated industries have all contributed to the transition. Industry changes brought on by this movement are ongoing, and the industry will remain in a transitional state for the next few years or more. *The Changing Structure of the Electric Power Industry: Selected Issues, 1998*, Energy Information Administration, July 1998 at ix.

See also *The Changing Structure of the Electric Power Industry: An Update* 35–38 (discussing the factors underlying the ongoing development of competitive electricity markets and restructuring of the electric power industry). Because of the ongoing development of electricity markets and electric power industry restructuring, competition in electric generation is expected to become more pervasive in the future. *Electric Power Annual 1998*, Vol. II, Energy Information Administration, December 1998 at 1 and 4.

With increased competition and industry restructuring, both utilities and non-utilities are generating and selling significant amounts of electricity, a trend that is likely to increase in the future. In particular, the increasing role of non-utilities is reflected in electric power data for the period 1992–1998 indicating that:

(1) The number of investor-owned utilities has decreased by nearly 8 percent, while the number of non-utilities has increased by over 9 percent.

(2) Non-utilities are expanding and buying utility-divested generation assets, causing their net generation to increase by 42 percent and their nameplate capacity to increase by 72 percent from 1992 to 1998. Non-utility capacity and generation will increase even more as they acquire additional utility-divested generation assets over the next few years.

(3) The non-utility share of net generation has risen from 9 percent (286 million megawatt hours) in 1992 to 11 percent (406 million megawatt hours) in 1998.

(4) Utilities have historically dominated the addition of new capacity but additions to capacity by utilities are decreasing while additions by non-utilities are increasing. In the period 1985–1991, utilities were responsible for 62 percent of the industry's additions to capacity, but that figure dropped to 48 percent in the period 1992–1998. *The Changing Structure of the Electric Power Industry 1999: Mergers and Other Corporate Combinations*, Energy Information Administration, December 1999 at x.

In fact, in 1998 alone, non-utilities accounted for about 11 percent of net generation and 81 percent of capacity additions. *Id.* at 8 (Figure 1); see also *id.* at 9–10 [Figure 2 (graph showing non-utility megawatt additions to capacity far exceeding utility additions) and Figure 3 (graph showing non-utility annual growth rate of additions to capacity far exceeding utility annual growth rate of additions)]. Cogeneration units currently account for about 55 percent of existing non-utility capacity, and there is a large potential for more cogeneration, e.g., in both the refining and paper and pulp industries. *Electric Power Annual 1998*, Vol. II at 10.

Along with increases in non-utility generation and capacity, non-utility sales of electricity to utilities and to end-users have increased during 1994–1998, even though the vast majority of electricity sales are still made by utilities. *Id.* at 87 [Table 51 (showing sales to utilities and end-users)]. With increasing competition and restructuring, any unit serving a generator—regardless of whether the unit owner is a utility or a non-utility (e.g., an independent power producer or an industrial company)—can produce and sell electricity. As a result, “new entrants, generating and selling power, have made inroads in an industry previously closed to outside participants. Because of this array of changes, the industry is now more commonly called the *electric power industry* rather than the erstwhile *electric utility industry*.” *The Changing Structure of the Electric Power Industry: Selected Issues, 1998* at 5. See also *The Changing Structure of the Electric Power Industry 2000: An Update*, Energy Information Administration, October 2000 at 1 and Supporting Statement for the Electric Power Surveys, OMB Number 1905–0129, Energy Information Administration, September 2001 at 7 (discussing the continued trend of increased participation of non-utilities in electric power industry). Particularly, in light of increasing non-utility capacity additions and sales and the likelihood of continued growth in non-utility participation in competitive electricity markets, distinctions based on ownership of units are becoming less important. These distinctions are increasingly irrelevant in determining whether units are involved in, and should be classified as, producing and selling electricity.

The Energy Policy Act of 1992 encouraged these types of changes in the electric power industry by recognizing a new category of non-utility generators under the Public Utility Holding Companies Act, i.e.,

“exempt wholesale generators,” which lack transmission facilities and are exempt from the corporate and geographic restrictions imposed by the Public Utility Holding Companies Act. Exempt wholesale generators may generally charge market-based rates but cannot require utilities to purchase the electricity. *The Changing Structure of the Electric Power Industry: An Update* at 28–29. The Energy Policy Act also amended section 211 of the Federal Power Act to broaden the ability of non-utility generators to request that the Federal Energy Regulatory Commission (FERC) order utilities to provide transmission services for electricity produced and sold by non-utility generators, e.g., transmission access to non-contiguous utilities. *The Changing Structure of the Electric Power Industry: Selected Issues, 1998* at 1. In response to the Energy Policy Act, FERC has encouraged competition for electricity at the wholesale level (i.e., in sales of electricity for resale) by removing obstacles to such competition. For example, starting in 1996, FERC issued orders [e.g., Order No. 888, 61 FR 21540 (1996), and Order No. 889, 61 FR 21737 (1996)] requiring utilities to provide open access for electricity generators to transmission lines, file nondiscriminatory open-access tariffs applicable to all parties seeking transmission service, and participate in the Open Access Same-Time Information System (OASIS). *Id.*; see also *The Changing Structure of the Electric Power Industry: An Update* at 57–63 (describing FERC Order Nos. 888 and 889). The FERC is continuing to take actions aimed at ensuring open transmission access. See, e.g., Order No. 2000, 65 FR 809 (2000) (requiring utilities to submit proposals for participation in a regional transmission organization meeting specified requirements aimed at removing impediments to electricity competition or to submit any plans to work toward such participation). In short, future Federal actions promoting wholesale competition and deregulation of electricity generation will likely continue the process of removing the distinction between utilities and non-utilities.

In some States, State actions may also continue this process. Many States have adopted legislation or approved plans for, or have begun to consider providing, access by end-users to competitive electricity markets. A number of States have adopted pilot programs to initiate and evaluate the feasibility of competition at the retail level (i.e., in sales of electricity to end-

users). See *Electric Power Annual 1998*, Vol II at 4; and *The Changing Structure of the Electric Power Industry: Selected Issues, 1998* at xi and 93. Consequently, “[o]ne of the expectations for the future is that end users of electricity will be allowed to participate in a unified wholesale/retail market.” *Id.* at 3. See also *The Changing Structure of the Electric Power Industry: An Update* at 67–68 (describing State actions).

Other Federal agencies that deal with the power industry have realized that the historical distinction between utilities and non-utilities is no longer meaningful. In particular, the EIA is in the process of revising its reporting requirements so that there will be virtually no distinction between reporting by utility generators and by non-utility generators. Historically, EIA required utilities to report electricity generation, fuel use, and other information on different forms than non-utilities and treated the utility information as public information and the non-utility information as confidential business information. Recently, EIA began an effort to reduce, and virtually eliminate, the differences between utility and non-utility forms and to make most information available to the public. See *Electric Power Surveys Supporting Statement*, EIA, November 1998 at 6, 26, 28–9, 47, 50 and *Supporting Statement for the Electric Power Surveys*, OMB Number 1905–0129 at 16–17, 28, and 30 (explaining that utilities and non-utilities will be subject to the same data collection and disclosure policies).

In summary, the increasingly competitive nature of the electric power industry and the significant and increasing participation of non-utilities in competitive electricity markets support similar treatment of utilities and non-utilities. We believe that, with these changes in the electric power industry and electricity markets, there is no longer a factual basis for excluding cogeneration units from treatment as EGUs by using the one-third potential electrical output capacity/25 MWe sales criteria.

iii. Differences between the design and operation of cogenerating units and non-cogenerating units

There appear to be no physical, operational, or technological differences between cogeneration units producing electricity for sale and non-cogeneration units producing electricity for sale that would prevent cogeneration units classified as EGUs from achieving average NO_x reductions, and at average costs, similar to those achieved by non-cogeneration units. Similarly, there appear to be no such differences that

would justify using the one-third potential electrical output capacity/25 MWe sales criteria for classifying cogeneration units as EGUs or non-EGUs, rather than the classification methodology used for all other units.

Cogeneration units operate in two basic configurations.¹² The first is a boiler followed by a steam turbine-generator. In this configuration, steam is generated by a boiler. The steam is first used to power a steam turbine-generator, while the remaining steam is used for an industrial application or for heating and cooling. The boiler that generates the steam used in this manner can be designed and operated in essentially the same way as a boiler that generates steam used only to power a steam turbine-generator. Therefore, any controls that could be used on a boiler used to produce only electricity could also be used on a boiler used for cogeneration. In each case, the boiler emits the same amount of NO_x.

The second typical configuration for a cogeneration unit is a gas-fired combined cycle system. Combined cycle system plant refers to a system composed of a gas turbine, heat recovery steam generator, and a steam turbine. Combined cycle units that cogenerate can be designed and operated in essentially the same way as combined cycle units that generate only electricity. The waste heat from the gas turbine serves as the heat input to the heat recovery steam generator which is used to power the steam turbine. Both the gas turbine and the steam turbine are connected to generators to produce electricity. The gas turbine-generator and the heat recovery steam generator portions can be adapted to supply process steam as well as electrical power. These units typically emit at NO_x levels well below 0.15 lbs/mmBtu even without the use of post-combustion controls. Furthermore, selective catalytic reduction (SCR) has been used extensively on combined cycle units that are used for cogeneration and those used for generation of electricity only and results in NO_x emissions at levels well below 0.15 lb/mmBtu. (See *GE Combined-*

¹² These two configurations are for cogeneration units in topping cycle cogeneration facilities, where energy is used sequentially first to produce electricity and then to produce thermal energy for process use or heating and cooling. In bottoming cycle cogeneration facilities, energy is used sequentially first to produce thermal energy and then to produce electricity. (See *Cogeneration Applications Considerations*, R.W. Fisk and R.L. VanHousen, GE Power Systems, 1996, Docket # A–96–56, item # XII–L–04 at 1–2.) The cogeneration units subject to the NO_x SIP Call and the Section 126 Rule are boilers, turbines, or combined cycle systems and so are likely to operate in topping cycle cogeneration facilities.

Cycle Product Line and Performance, GE Power Systems, October 2000, docket # A-96-56, item XII-L-04 at 10-11.)

Both cogeneration configurations identified above are used at utility and non-utility facilities that produce electricity for sale. The steam generated at these facilities is divided between powering a steam turbine and serving process uses or heating and cooling. The cogeneration units at these facilities are almost identical in design, except that a non-utility facility may use more of the steam for process uses or heating and cooling, rather than electricity generation.

Further, in comparison to a non-cogeneration system that generates electricity for sale, either type of cogeneration system looks essentially the same except for the addition of valves and piping to send the steam for process use or heating and cooling. Under both the cogeneration and non-cogeneration systems that generate electricity for sale, all the flue gas (containing the NO_x emissions) exiting the combustion process can be directed through the pollution control devices and then through a stack. Because the cogeneration and non-cogeneration systems are of essentially the same design and the flue gas exits the systems in the same manner, the control of NO_x emissions can be achieved in the same manner. Any post-combustion pollution control device used for NO_x control in either system is located in the same place and operated in the same manner. [For examples and discussion of how post-combustion controls apply to cogeneration units, see docket # A-96-56, item # XII-L-02; XII-L-03; and XII-L-05 at 10-11 and 13 (Figure 15).]

More specifically, as discussed in detail in the technical support document (Lack of Relevant Physical or Technological Differences Between Cogeneration Units and Utility Electricity Generating Units, September 25, 2000, docket # A-96-56, item # XII-K-47), post-combustion NO_x control technologies, *i.e.*, selective non-catalytic reduction (SNCR) and SCR, are available for use on both non-cogeneration and cogeneration units producing electricity for sale. The technical support document and the other documents cited above support the following conclusions:

(1) Selective non-catalytic reduction is a fully commercial technology that uses reagent injected into the boiler above the combustion zone to reduce NO_x to elemental nitrogen and water. Because the NO_x reduction takes place above the combustion zone, boiler type has an insignificant impact on the

ability to use SNCR. Selective non-catalytic reduction has been demonstrated on a wide range of boiler types and sizes (including cogeneration units) and on a wide range of fuels (including bio-mass, wood, or combinations of fuels such as bark, paper sludge, and fiber waste). Selective non-catalytic reduction systems have been used at a wide range of temperatures (*e.g.*, from 1250 degrees F to 2600 degrees F) and have been designed to handle a wide range of load variation (*e.g.*, 33 percent to 100 percent of a unit's maximum continuous rating).

(2) Selective catalytic reduction is a fully commercial technology that uses both ammonia injected after the flue gases exit the boiler or the combustion turbine and catalyst in a reactor to reduce NO_x to elemental nitrogen and water. Because the NO_x reduction takes place in a reactor outside the combustion and heat transfer zones, boiler type has an insignificant impact on the ability to use SCR. Selective catalytic reduction has been demonstrated on a wide range of boiler types and sizes and on combined cycle systems. The SCR systems have been used at a wide range of temperatures (*e.g.*, 450 degrees F to 1100 degrees F) and have been designed to handle a wide range of load variation.

Therefore, the same, proven post-combustion NO_x control technologies (SNCR and SCR) are applicable to non-cogeneration units producing electricity for sale and to cogeneration units producing electricity for sale. Because no relevant physical, operational, or technological differences between these groups of units exist and because the post-combustion NO_x control technologies are located in the same place and operated in the same manner, we maintain that there is no significant difference in the average cost of controlling NO_x emissions from these units.

For example, in our cost analysis of EGUs, we used an average capital cost of \$69.70 to \$71.80 per kilowatt for SCR on a 200 MWe coal-fired EGU. See *Analyzing Electric Power Generation Under the CAAA*, U.S. EPA, March 1998, docket # A-96-56, item # V-C-03 at A5-7 (Table A5-5). The record also shows that SCR on a new coal-fired cogeneration unit has a capital cost of \$58 per kilowatt. See *Status Report on NO_x Control Technologies and Cost Effectiveness for Utility Boilers*, NESCAUM and MARAMA, June 1998, docket # A-96-56, item # VI-B-05 at 151-53. EPA maintains that this cost is

reasonably consistent with the average cost that EPA determined for all EGUs.¹³

Therefore, we conclude that the cost estimates we made for NO_x control technology retrofits apply to both cogeneration and non-cogeneration units producing electricity for sale. In today's rulemaking, we request comment on, and specific information supporting or contradicting, our conclusions that there are no relevant physical, operational, or technological differences and no significant difference in average control retrofit cost for cogeneration versus non-cogeneration units producing electricity for sale. Any cost information that is provided must have sufficient detail and support to allow evaluation as to whether the unit involved represents a typical unit.

4. What Methodology Are We Using To Classify EGU/Non-EGU Cogeneration Units?

For the reasons set forth above in section II.A.3 of today's preamble, we believe that it is appropriate to use the same methodology to classify all units, including cogeneration units, as EGUs or non-EGUs and generally to classify as EGUs all units that generate electricity for sale. This is appropriate regardless of whether the owners or operators of the units generating electricity for sale are utilities or non-utilities. Since the one-third potential electrical output capacity/25 MWe sales criteria of the "cogeneration exclusion" are essentially proxies for distinguishing between utility and non-utility ownership of cogeneration units, those criteria are no longer appropriate for distinguishing between EGUs and non-EGUs and classifying cogeneration units as EGUs or non-EGUs. In addition, as also identified in section II.A.3 above, we believe there are no relevant physical, operational, or technological differences between cogeneration and non-cogeneration units producing electricity for sale.

However, in order to provide a transition for units commencing operation before the development of competitive electricity markets or as these markets were emerging, we propose to apply to cogeneration units commencing operation before January 1, 1999 a transitional criterion for EGU/non-EGU classification. This is the same criterion that was used in the September

¹³ We also note that the dollar per ton cost for this installation is \$2,800 to \$3,000 per ton of NO_x removed. This is higher than the average cost for EGUs because the unit started at a low NO_x rate (0.16 lb/mmBtu) and controls down to 0.07-0.08 lb/mmBtu, not because the unit is a cogenerator. If the unit only generated electricity and had the same starting NO_x rate, the cost would be the same.

24, 1998 NO_x SIP Call Rule.

Specifically, for cogeneration units commencing operation before January 1, 1999, we will classify as EGUs units that generate electricity for sale under firm contract to the grid. Cogeneration units that generate electricity for sale, but not for sale under a firm contract to the grid (i.e., not under a guaranteed commitment to provide the electricity), will be classified as non-EGUs. For cogeneration units commencing operation on or after January 1, 1999, we will generally classify as EGUs all cogeneration units that generate electricity for sale, with the limited exception discussed below. As also discussed below, this is the same approach that is used for classifying units that are not cogeneration units.

We believe that the firm-contract criterion provides a reasonable transitional means of making the EGU/non-EGU classification for cogeneration units. As discussed above, with electricity competition and power industry restructuring, the distinction between utility and non-utility ownership, and thus the one-third potential electrical output capacity/25 MWe sales criteria, no longer provides a relevant means of distinguishing between EGUs and non-EGUs. Further, application of the one-third potential electrical output capacity/25 MWe sales criteria requires historical data for each cogeneration unit on the unit's electrical output capacity and electrical sales, all of which data has been treated by cogeneration unit owners and EIA as confidential business information. We do not have, and the petitioner and commenters in the NO_x SIP Call and Section 126 rulemakings have never provided, complete information on the identification of all units claiming to be cogeneration units and on such units' historical capacity and actual generation and sales.

In contrast, the firm-contract criterion provides a reasonable way of identifying which cogeneration units have been significantly enough involved in the business of generating electricity for sale that their owners have provided guaranteed commitments to provide electricity from the units to one or more customers. Moreover, the historical information necessary to apply the firm-contract criterion to cogeneration units (and other units) is already available to us. As discussed above, capacity involved in sales of electricity "under firm contract to the electricity grid" has been generally included on EIA form 860A (called EIA form 860 before 1998) or reported to EIA as capacity projected for summer or winter peak periods on EIA form 411 (Item 2.1 or 2.2, line 10).

The historical information from these forms is publicly available.

Application of the firm-contract criterion results in classifying, as EGUs, cogeneration units that commenced operation before January 1, 1999 and whose owners have committed to providing electricity for sale from the units. This criterion reflects the fact that the amount or percentage of the sales (which is a proxy for utility vs. non-utility ownership) is no longer relevant for EGU/non-EGU classification. The criterion is also practical for us to apply. For cogeneration units commencing operation on or after January 1, 1999, we will generally classify as EGUs all units generating electricity for sale, regardless of whether the sales are sales under firm contract to the grid. The category of cogeneration units recently commencing operation is relatively small. In the future, EIA will likely be treating virtually all new data for both utilities and non-utilities as public information, even though EIA will continue to keep historical non-utility data confidential. We, therefore, believe it is practical for us or States to obtain electricity sales information for such cogeneration units.

a. Difference in treatment of cogeneration units that produce electricity for sale and those that produce electricity for internal use only.

In the May 15, 2001 decision in the Section 126 case, the D.C. Circuit expressed concern that, under the Section 126 Rule, a cogenerator that produces electricity for sale may be treated as an EGU, a cogenerator that produces electricity for internal use only may be treated as a non-EGU, and thus two units that are "identical physically" may be subject to different emission reduction requirements. *Appalachian Power*, 249 F.3d at 1062. EPA notes that this issue is not unique to cogeneration units and is inherent in any regulatory program that distinguishes between units in the electric generation business and units that are in the industrial sector and sets different emission limits for the two groups.¹⁴ As previously discussed, this is a long-standing approach that, for the reasons presented above, EPA is continuing to use in the NO_x SIP Call and Section 126 Rule. EPA recognizes that this may result in units that are

¹⁴ In fact, use of the one-third potential electrical output capacity/25 MWe sales criteria for cogenerators would distinguish between EGU cogenerators and non-EGU cogenerators based on the cogenerator's amount of electricity sales and would raise the same issue. Under these criteria, two physically identical cogenerators could have different emission limits simply because one produces and sells the requisite amount of electricity and the other produces electricity for internal use and does not sell the requisite amount.

physically identical being regulated differently simply based on whether or not electricity produced by the unit is sold. However, before abandoning the long-standing approach of distinguishing between units on this basis—an action that few, if any, commenters in the NO_x SIP Call and Section 126 rulemakings have advocated—EPA believes that it is prudent to gain experience in operating the trading program under the NO_x SIP Call and Section 126 Rule. EPA proposes to take a reasonable first step to take account of electric restructuring and deregulation by revising the definition of EGU to focus on production of electricity for sale, regardless of whether a unit is a utility or a non-utility. After EPA has gained experience with the NO_x SIP Call and Section 126 trading program, EPA intends to consider whether to take the additional step of treating the same all units that produce electricity, whether for sale or internal use.

b. Minor revisions to NO_x SIP Call definition of EGU.

i. As noted above, we propose to change the categorization of units used in the NO_x SIP Call from units commencing operation before January 1, 1996 or units commencing operation on or after January 1, 1996 to units commencing operation before January 1, 1997, units commencing operation on or after January 1, 1997 and before January 1, 1999, or units commencing operation on or after January 1, 1999. We propose to use these new categories in applying the firm-contract criterion for EGU/non-EGU classification of all units, including cogeneration units. This is a modification of the methodology that has been used in the NO_x SIP Call. This modification is set forth above in section II.A of today's preamble. Under today's action, for units commencing operation before January 1, 1997, we propose to use the same period (i.e., 1995–1996) to determine the EGU/non-EGU classification of the units as we used to calculate the EGU portion of each State's budget under the NO_x SIP Call. See 63 FR 57407, October 27, 1998. Whether such a unit had electricity sales under firm contract to the grid in 1995–1996 will be used to determine the unit's EGU/non-EGU classification.

For units commencing operation on or after January 1, 1997 and before January 1, 1999, we propose to use 1997–1998 to determine the EGU/non-EGU classification of units. Whether such a unit had electricity sales under firm contract to the grid in 1997–1998 determines the unit's EGU/non-EGU classification.

The firm-contract criterion will not apply to units commencing operation on or after January 1, 1999. The classification of units commencing operation on or after January 1, 1999 will be based on whether the unit produces any electricity for sale. In general, any unit that produces electricity for sale will be an EGU, except that the non-EGU classification will apply to a unit serving a generator that has a nameplate capacity equal to or less than 25 MWe, from which any electricity is sold, and that has the potential (determined based on nameplate capacity) to use 50 percent or less of the potential electrical output capacity of the unit.

For several reasons, we are establishing January 1, 1999 as the cutoff date for applying EGU and non-EGU definitions based on electricity sales under firm contract to the grid and the start date for applying EGU and non-EGU definitions based on any electricity sales. First, information is available to us on firm-contract electricity sales on a calendar year basis only. Consequently, the classification of units based on whether the generators they serve are involved in firm-contract electricity sales must be made on a calendar year basis, and any cutoff must start on January 1. Second, use of the January 1, 1999 cutoff date for the NO_x SIP Call is consistent with the use of that same cutoff date in the Section 126 Rule. Third, the January 1, 1999 cutoff date will limit the ability of owners or operators of new units that might otherwise qualify as large non-EGUs from obtaining small EGU classification for the units and thereby avoiding all emission reduction requirements. For example, since the cutoff date and the relevant period for determining firm-contract electricity sales are past, the owner of a large new unit that would otherwise not serve a generator will not be able to obtain small EGU classification simply by adding a very small generator (e.g., 1 MWe) to the unit and selling a small amount of electricity under firm contract to the grid.

In the interests of reducing the complexity of the regulations aimed at reducing interstate transport of ozone, we believe that it is desirable to have consistent EGU definitions in the NO_x SIP Call and Section 126 programs. With the above-described changes in the categories of units based on commencement-of-operation date, the EGU definition in the NO_x SIP Call will be the same as the EGU definition reflected in the applicability provisions (i.e., § 97.8(a)) of the Section 126 program.

ii. As noted above, we also propose to use in the NO_x SIP Call the same term “potential electrical output capacity,” and the same definitions of the terms “electricity for sale under firm contract to the electric grid,” “potential electrical output capacity,” “nameplate capacity,” and “maximum design heat input,” adopted in the January 18, 2000 Section 126 final rule and used in the EGU definition in the regulations (i.e., part 97) implementing the Section 126 program. The basis for these terms and definitions is set forth above.

5. What Is the Effect on Cogeneration Unit Classification of Applying the Same Methodology as Used for Other Units, Rather Than the One-Third Potential Electrical Output Capacity/25 MWe Sales Criteria?

The petitioner in *Michigan* who successfully challenged the lack of application of the one-third potential electrical output capacity/25 MWe sales criteria to cogeneration units claimed that the failure to apply such criteria would result in “sweeping previously unaffected non-EGUs into the EGU category.” Brief of Petitioner CIBO at 4 (submitted in *Michigan*). The petitioner further suggested that, without the application of these criteria, “any sale of electricity will make a non-EGU a more stringently regulated EGU.” Reply Brief of Petitioner CIBO at 1 (submitted in *Michigan*).

As discussed above, large EGUs and large non-EGUs are included in the determination of the amount of a State’s significant contribution to nonattainment in another State. No reductions by small EGUs or small non-EGUs are included in that determination.

Neither the petitioner nor any party that commented in the NO_x SIP Call or the Section 126 rulemakings identified any specific, existing cogeneration units that, *without* the application of the one-third potential electrical output capacity/25 MWe sales criteria, would be classified as large EGUs but that, *with* the application of such criteria, would be classified as either large or small non-EGUs. In fact, one commenter supporting the one-third potential electrical output capacity/25 MWe sales criteria stated that applying the criteria to the NO_x SIP Call “would not alter the Agency’s baseline emissions inventory, since cogeneration units were, for the most part, classified correctly as non-EGUs in EPA’s current data base.” See Responses to the 2007 Baseline Sub-Inventory Information and Significant Comments for the Final NO_x SIP Call (63 FR 57356, October 27, 1998), May 1999 at 9. This comment and the failure

of commenters to identify any specific cogeneration units affected by today’s proposed change suggest that use of the one-third potential electrical output capacity/25 MWe sales criteria, instead of the classification proposed in today’s rule, would shift few, if any, existing cogeneration units from being large EGUs to being large or small non-EGUs.

The EGU/non-EGU classification methodology that we propose to use for most existing cogeneration units is based on whether, during a specified period, the unit served a generator that sold electricity under firm contract to the grid. The specified period for units commencing operation before January 1, 1997 is 1995–1996, and the specified period for units commencing operation on or after January 1, 1997 and before January 1, 1999 is 1997–1998. Since the EGU/non-EGU classification is based on sales under firm contract and not simply sales, the methodology proposed for cogeneration units does not classify as EGUs all existing cogeneration units that generate electricity for sale. We believe that existing cogeneration units that are not significantly involved in the business of generating electricity for sale will be classified under the proposed methodology as non-EGUs, rather than EGUs, because the owners of such units will not have committed to providing electricity for sale from the units.

We request commenters to identify by name, location, and plant and point identification any cogeneration unit that commenters believe would be classified as an EGU under today’s proposed methodology and would be classified as a non-EGU if the one-third potential electrical output capacity/25 MWe sales criteria were applied instead of the proposed methodology. Further, we request that commenters also state whether the unit is large or small under each such classification approach and provide information about each such unit, supporting any claimed EGU, non-EGU, large, and small classifications of the unit.

While we believe that today’s proposed methodology will classify as non-EGUs existing cogeneration units that are not significantly involved in the business of generating electricity for sale, we request information about whether adopting the one-third potential electrical output capacity/25 MWe sales criteria, instead of the proposed methodology, would change the classification for some cogeneration units in a way that would make them potentially subject to more stringent emission reduction requirements than under the proposed methodology. For example, an existing cogeneration unit classified as a large non-EGU under

today's proposed methodology may become a large EGU if the unit did not sell electricity under firm contract to the grid, but sold more than one-third of its potential electrical output capacity and serves a generator with a nameplate capacity larger than 25 MWe. By further example, an existing cogeneration unit classified as a small EGU under today's proposed methodology may become a large non-EGU if the unit sold electricity under firm contract to the grid, but sold less than one-third of its potential electrical output capacity and has a maximum design heat input of greater than 250 mmBtu/hr.

We request commenters to identify by name, location, and plant and point identification any cogeneration unit that commenters believe would be classified as a large or small non-EGU under today's proposed methodology and that would be classified as a large EGU if the one-third potential electrical output capacity/25 MWe sales criteria were applied instead of the proposed methodology. We also request commenters to identify by name, location, and plant and point identification any cogeneration unit that the commenters believe would be classified as a small EGU under today's proposed methodology and that would be classified as a large non-EGU if the one-third potential electrical output capacity/25 MWe sales criteria were applied instead of the proposed methodology. In addition, we request that commenters also provide information about each identified unit supporting any claimed EGU, non-EGU, large, or small classifications of the unit.

Sources that identify themselves as cogenerators or small cogenerators (one-third potential electrical output capacity/25 MWe sales criteria) should submit the following information to assist us in confirming their identification:

(1) A description of the facility to demonstrate that the facility meets the definition of a "cogeneration unit" under 40 CFR 72.2.

(2) Data describing the annual electricity sales from the unit for every year from the unit's commencement of operation through the present. To provide this information, sources should submit the same form as they used to report the information to the EIA, or if they have not reported the information to EIA, provide the same information on annual electricity sales as was or would have been required to be reported to EIA.

(3) Information concerning the unit's maximum design heat input.

Under today's proposed methodology, the EGU definition based generally on

whether the unit has any electricity sales will apply to units that commence operation on or after January 1, 1999. Thus, in general, any new units that serve generators involved in generating electricity for sale will be EGUs. This reflects the restructuring of the electric power industry under which any unit serving a generator (regardless of whether the owner is a utility or a non-utility) can be involved in selling electricity and non-utility units are involved in an increasing portion of the electricity market. Since we are classifying as EGUs cogeneration units that commence operation on or after January 1, 1999 and sell any electricity, this may result in classification as EGUs of some cogeneration units that recently commenced operation or commence operation in the future and that would be non-EGUs under the one-third potential electrical output capacity/25 MWe sales criteria. As discussed above, we maintain that this result is reasonable in light of today's changing electricity markets and power industry restructuring.

B. What Control Level Is Being Proposed for Stationary Reciprocating Internal Combustion Engines (IC Engines)?

1. What Control Level Was Used in the NO_x SIP Call?

In developing budgets for the NO_x SIP Call proposal (62 FR 60318, November 7, 1997), we assumed a 70 percent reduction at large sources and reasonably available control technology (RACT) at medium-sized sources (the OTAG recommendation) for about 20 categories of non-EGU stationary sources. These sources included, among others, industrial boilers and turbines, cement kilns, glass manufacturing, IC engines, sand and gravel operations, and steel manufacturing. Once State NO_x budget components were established for a particular option, control strategies were developed for the least-cost solution to attain these budgets. The least-cost solution was achieved by assuming controls on over 9,000 NO_x sources of various sizes and categories at an average cost effectiveness of \$1,650/ton; two thirds of the NO_x emissions reductions were from only two source categories: non-EGU boilers and IC engines.

In the final NO_x SIP Call Rule, we looked at applying a size cut-off for small sources and considered various control levels for each of the categories of large non-EGU stationary sources. We determined that highly cost-effective controls for non-EGUs were appropriate for only three categories: large industrial boilers and turbines, cement kilns, and

IC engines. For large IC engines, we determined, based on the relevant Alternative Control Techniques (ACT) document,¹⁵ that post-combustion controls are available that would achieve a 90 percent reduction from uncontrolled levels at costs well below \$2,000 per ton. Therefore, the budget calculations included a 90 percent decrease for large IC engines.

2. What Was the March 3, 2000 Court Decision Regarding IC Engines?

In the litigation on the NO_x SIP Call, the Interstate Natural Gas Association of America (INGAA), a trade association that represents major interstate natural gas transmission companies in the United States, contended that we did not provide adequate notice and opportunity to comment on the control level assumed for IC engines in its determination of State NO_x budgets for the final rule. In *Michigan v. EPA*, 213 F.3d at 693, the Court agreed and remanded this issue to us for further consideration.

The INGAA further contended that the documents that we relied on did not support our assumption of 90 percent control level. In remanding due to inadequate notice, the Court did not rule on the merits of the issue, i.e., the level of control for IC engines.

In addition, INGAA challenged our definition of "large" IC engine.¹⁶ The Court, however, upheld the Agency's definition of large IC engine, stating that we went through an extensive comment period on this issue. *Id.* at 693–94.

3. What Are the Emissions From IC Engines?

The large IC engines affected by the NO_x SIP Call are primarily used in pipeline transmission service with gas turbines at compressor stations. Uncontrolled NO_x emissions from large IC engines are, on average, greater than 3.0 lbs/mmBtu and uncontrolled NO_x emissions from gas turbines are about 0.3 lbs/mmBtu. In the NO_x SIP Call, we determined that highly cost-effective controls are available to reduce emissions from large IC engines by 90 percent from uncontrolled levels (i.e., to about 0.3 lbs/mmBtu);¹⁷ and that NO_x

¹⁵ Alternative Control Techniques document, "NO_x Emissions from Stationary Reciprocating Internal Combustion Engines," EPA-453/R-93-032, July 1993.

¹⁶ A large IC engine is one that emitted, on average, more than 1 ton per day during the 1995 ozone season (May 1 through September 30).

¹⁷ The discussion in the text generally uses "grams/brake horsepower-hour" or g/bhp-hr rather than lbs/mmBtu since the former is the convention for the industry. The uncontrolled estimate of 3.0 lbs/mmBtu (from AP-42, October 1996) corresponds to about 11.3 g/bhp-hr. The 1993 ACT

emissions from large gas turbines (and boilers) can be decreased by highly cost-effective controls to an average regionwide emission rate of 0.15–0.17 lbs/mmBtu.¹⁸

In the September 24, 1998 final NO_x SIP Call Rule, we identified about 300 large IC engines. Subsequently, we received information from commenters seeking to make changes to the emissions inventory. We made corrections to the emissions inventory which now includes about 200 large IC engines in the final NO_x SIP Call budget (65 FR 11222). The vast majority of large IC engines included in the budget are natural gas fired.

4. What Control Technologies Are Available for IC Engines?

For the NO_x SIP Call, we divided IC engines into four categories and assigned (for purposes of the budget calculation) a 90 percent emissions decrease on average to each category. The 90 percent decrease was based on information in our ACT document for IC engines and application of the following controls: non-selective catalytic reduction (NSCR) for natural gas-fired rich-burn engines and SCR for diesel, dual-fuel, and natural gas-fired lean-burn engines.

As described in detail in the ACT document, several other control technologies are available to decrease emissions of NO_x from IC engines. For natural gas-fired rich-burn engines, the following additional controls exist: air/fuel adjustment, ignition timing retard, ignition timing retard plus air/fuel adjustment, prestratified charge, and low-emission combustion. For diesel engines, ignition timing retard can also be used to reduce emissions of NO_x. For dual-fuel engines ignition timing retard and low-emission combustion are available. Finally, for natural gas-fired lean-burn engines, the following additional controls exist: air/fuel adjustment, ignition timing retard, ignition timing retard plus air/fuel adjustment, and low emission combustion. These controls technologies vary in terms of cost, effectiveness, additional fuel needed, and impact on power output.

The NO_x SIP Call budgets were calculated by applying controls described in the ACT document for IC engines that represented the greatest emissions reductions that would be achieved by applying available, highly cost-effective controls. For natural gas-

fired rich-burn IC engines, NSCR provides the greatest NO_x reduction of all the highly cost-effective technologies considered in the ACT document and is capable of providing a 90 to 98 percent reduction in NO_x emissions. For diesel and dual-fuel engines, SCR provides the greatest NO_x reduction of all highly cost-effective technologies considered in the 1993 ACT document and is reported to provide an 80 to 90 percent reduction in NO_x emissions. More recent reports state that NO_x emissions can be reduced by greater than 90 percent by SCR. Therefore, we estimate NO_x reductions for these engines at 90 percent on average. We estimate the population of diesel/dual fuel IC engines is a very small part of the large IC engines population in the NO_x SIP Call (less than 3 percent).

In addition to being highly cost effective and providing greater emission reductions, the above selected controls generally have the advantage of requiring less additional fuel and have less adverse impact on power output. For example, ignition retard and air-fuel ratio adjustment requires the use of up to 7 percent additional fuel and prestratified charge technology may reduce power output up to 20 percent. In contrast, NSCR and SCR technologies require additional fuel in the range of 0.5 to 5 percent and may reduce power output only in the 1 to 2 percent range.

For all large IC engines, except natural gas-fired lean-burn engines (see discussion below on lean-burn engines), we continue to believe that 90 percent control is achievable through NSCR or SCR and is highly cost effective—i.e., less than \$2000/ton ozone season. This is demonstrated in the ACT document for IC engines and in the IC Engines Technical Support Document (TSD) entitled “Stationary Reciprocating Internal Combustion Engines Technical Support Document for NO_x SIP Call Proposal,” EPA, OAQPS, September 5, 2000 (IC Engines TSD). Therefore, we propose to assign a 90 percent emissions decrease on average for large natural gas-fired rich-burn, diesel, and dual-fuel IC engines. We invite comment on all the control technologies listed above, as well as other technologies not listed. The appropriate control technology and percent reduction for natural gas-fired lean-burn engines is discussed later in this action.

The time required from a request for cost proposal to field installation of proposed NO_x controls for IC engines is less than 11 months. Therefore, an implementation deadline of May 31, 2004 is reasonable for States required to adopt and submit Phase II rules no later

than April 1, 2003, as well as for Georgia and Missouri.

5. Is SCR an Appropriate Technology for Natural Gas-Fired Lean-Burn IC Engines?

Information received by us from the natural gas transmission industry after publication of the NO_x SIP Call Rule indicates that most, if not all, large natural gas-fired lean-burn IC engines in the SIP Call region are in natural gas distribution and storage service and that these engines experience frequently changing load conditions which make application of SCR infeasible. The industry also states that low emission combustion (LEC) technology is a proven technology for natural gas-fired lean-burn IC engines, while SCR is not. Regarding variable load operations, our ACT document for IC engines states that little data exist with which to evaluate application of SCR for the lean-burn, variable load operations. With the understanding that these large IC engines are in variable load operations, we now believe there is an insufficient basis to conclude that SCR is an appropriate technology for the large lean-burn engines. Therefore, we are no longer proposing that SCR is a highly cost-effective control technology for the natural gas-fired lean-burn IC engines. As described in the next section, we believe LEC technology is a highly cost-effective control technology and is appropriate for natural gas-fired lean-burn IC engines in either variable or continuous load operation.

6. Is LEC Technology Appropriate for Natural Gas-Fired Lean-Burn IC Engines?

Lean-burn engines can reduce NO_x emissions by adjusting the air/fuel ratio to a leaner mode of operation. The increased volume of air in the combustion process increases the heat capacity of the mixture, lowering combustion temperatures and reducing NO_x formation. The LEC technology involves a large increase in the air/fuel ratio (to ultra-lean conditions) compared to conventional designs.

Emissions of NO_x from existing lean-burn engines can vary widely due to the specific air/fuel ratio at which the engine is designed to operate. For naturally aspirated engines (which operate at near stoichiometric air/fuel ratios), emissions can be as high as 26 grams per brake horsepower-hour (g/bhp-hr). Turbo-charged engines can reduce emissions of NO_x up to 40 percent by air/fuel ratio increases. Further, engines designed to operate at very high air/fuel ratios and with

document for IC engines estimates average uncontrolled emissions at 5.13 lb/mmBtu or 16.8 g/bhp-hr.

¹⁸ NO_x SIP Call Rule at 63 FR 57402.

advanced ignition technology can reduce emissions to about 1 g/bhp-hr.

Because there are many types of existing lean-burn engines (e.g., some turbo charged, some not), the retrofit of LEC technology would require different modifications depending on the particular engine. Application of components of LEC technology will yield incremental emissions reductions. Therefore, it is important to carefully define LEC technology. We propose the following definition, which is similar to the description of LEC technology in the ACT document, and invite comments on the definition. Implementation of LEC technology for lean-burn IC engines means:

The modification of a natural gas-fueled, spark-ignited, reciprocating internal combustion engine to reduce emissions of NO_x by utilizing ultra-lean air-fuel ratios, high energy ignition systems and/or pre-combustion chambers, increased turbo charging or adding a turbo charger, and increased cooling and/or adding an intercooler or aftercooler, resulting in an engine that is designed to achieve a consistent NO_x emission rate of not more than 1.5–3.0 g/bhp-hr at full capacity (usually 100 percent speed and 100 percent load).

The ACT for IC engines and other documents indicate that LEC technology is appropriate for lean-burn engines, continuous or variable load, and is highly cost effective. We believe application of LEC would achieve NO_x emission levels in the range of 1.5–3.0 g/bhp-hr. This is an 82 to 91 percent reduction from the average uncontrolled emission levels, on average, reported in the ACT document. We believe that LEC retrofit kits are available for all large lean-burn IC engines. As described in the IC Engines TSD, emissions test data collected over the last several years indicate that 91 percent of IC engines with installed LEC technology achieved emission rates of 1.5 g/bhp-hr or less. A guaranteed level of 2.0 g/bhp-hr is generally available from engine manufacturers.

Because most of the engines tested actually are below 1.5 g/bhp-hr, even if some engines in the SIP call area were to exceed the 3.0 level, the average emission rate of several engines is still expected to be well within the 1.5 to 3.0 range. That is, while engines that are equipped with LEC technology designed to meet a 1.5 to 3.0 g/bhp-hr standard will generally meet the design goal, the actual results for a particular engine may vary. There is one type of engine model, Worthington engines, that may be particularly difficult to retrofit and which may exceed the 1.5 to 3.0 g/bhp-hr LEC retrofit level. We request

comment on where and how many large Worthington engines are in the area covered by the NO_x SIP Call and what average control level should be expected with application of LEC technology for those engines.

a. Can States adopt an LEC technology standard?

States, of course, are not required to adopt technology standard rules nor even to adopt rules to control emissions from IC engines. However, if States choose to use a technology standard for regulating IC engines, we believe it would be appropriate for States to assume an average reduction level for each engine installing this technology for purposes of calculating the State's emission budget.

In many cases, we do not suggest a technology-based standard since an emission rate and continuous emissions monitoring approach can provide more environmental certainty. In this instance, we have data identifying the tonnage baseline for each large IC engine, but we do not have emission rate (or heat input) data for each IC engine. Thus, in order to calculate the budget reduction for IC engines, we must identify a percentage reduction and apply that value to the tonnage baseline in order to calculate the budget reduction for IC engines. In the case of IC engines, a technology standard can be readily translated into a percentage reduction. Further, we believe there is a large amount of consistent test data supporting LEC technology which provides environmental certainty.

b. What is the cost effectiveness for large IC engines using LEC technology?

For the control range of 82 to 91 percent, the average cost effectiveness for large IC engines using LEC technology has recently been estimated to be \$520 to 550/ton.¹⁹ We acknowledge that specific cost-effectiveness values will vary from engine to engine. The key variables in determining average cost effectiveness for LEC technology are the average uncontrolled emissions at the existing source, the projected level of controlled emissions, annualized costs of the controls, and number of hours of operation in the ozone season. The ACT document uses an average uncontrolled level of 16.8 g/bhp-hr, a controlled level of 2.0 g/bhp-hr, and nearly continuous operation in the ozone season. We believe the ACT document provides a reasonable approach to calculating cost

effectiveness for LEC technology.

Further, we believe the cost-effectiveness analysis should use updated annualized cost data as described in the IC Engines TSD. For additional information, we analyzed alternative uncontrolled and controlled levels, hours of operation, and annualized costs (see IC Engines TSD). The sensitivity analysis indicates a range of cost effectiveness for large IC engines using LEC technology of \$510 to 870/ton (ozone season).

7. What NO_x SIP Call Budget Calculations Are We Proposing?

We propose to assign a 90 percent emissions decrease on average for large natural gas-fired rich-burn, diesel, and dual fuel IC engines. For large natural gas-fired lean-burn IC engines, we propose to assign a percent reduction from within the range of 82 to 91 percent. Based on available data regarding demonstrated costs, effectiveness, availability, and feasibility of LEC technology, and consideration of comments received in response to the proposal, we intend to determine a percent reduction number to use in calculating this portion of the NO_x SIP Call budget decrease; the reduction is likely to be within the 82 to 91 percent range. The average cost effectiveness for all large IC engines in the SIP Call population is estimated to be \$530/ton ozone season, where LEC technology is assigned an 87 percent reduction and SNCR and SCR achieve 90 percent reduction.²⁰ The Agency invites comment on the control level and associated cost-effectiveness calculations with respect to all IC engine types, and we are especially interested in comments regarding the natural gas-fired lean-burn IC engines.

The NO_x SIP Call emissions inventory identifies natural gas-fired IC engines, but does not separate rich- and lean-burn IC engines. In the final rulemaking, if we choose to use different control levels for rich- and lean-burn IC engines, as proposed above, it would be necessary to estimate the emissions in each category in order to calculate the emissions reductions. We propose to assume that two-thirds of the emissions from large natural gas-fired IC engines are from lean-burn operation and one-third is from rich burn. We invite comments on this estimate.

¹⁹ "NO_x Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO_x SIP Call States" prepared by Pechan-Avanti Group for EPA, August 11, 2000; annual costs in 1990 dollars per NO_x tons reduced in the ozone season.

²⁰ "NO_x Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO_x SIP Call States" prepared by Pechan-Avanti Group for EPA, August 11, 2000.

C. What Is Our Response to the Court Decision on Georgia and Missouri?

Georgia and Missouri industry petitioners challenged our decision to calculate NO_x budgets for these two States based on the entirety of NO_x emissions in each State. The petitioners maintained that the record supports including only eastern Missouri and northern Georgia as contributing to downwind ozone. The challenge from these petitioners generally stems from the OTAG recommendations. The OTAG recommended NO_x controls to reduce transport for areas within the "fine grid," but recommended that areas within the "coarse grid" not be subject to additional controls, other than those required by the CAA. This was based on OTAG's modeling analysis. The OTAG recommendation on Utility NO_x Controls was approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

The Court vacated our determination of significant contribution for all of Georgia and Missouri. *Michigan v. EPA*, 213 F.3d at 685. The Court did not seem to call into question the proposition that the fine grid portion of each State should be considered to make a significant contribution downwind.

However, the Court emphasized that "EPA must first establish that there is a measurable contribution," *id.* at 684, from the coarse grid portion of the State before determining that the coarse grid portion of the State significantly contributes to ozone nonattainment downwind. Elsewhere, the Court seemed to identify the standard as "material contribution []" *id.*

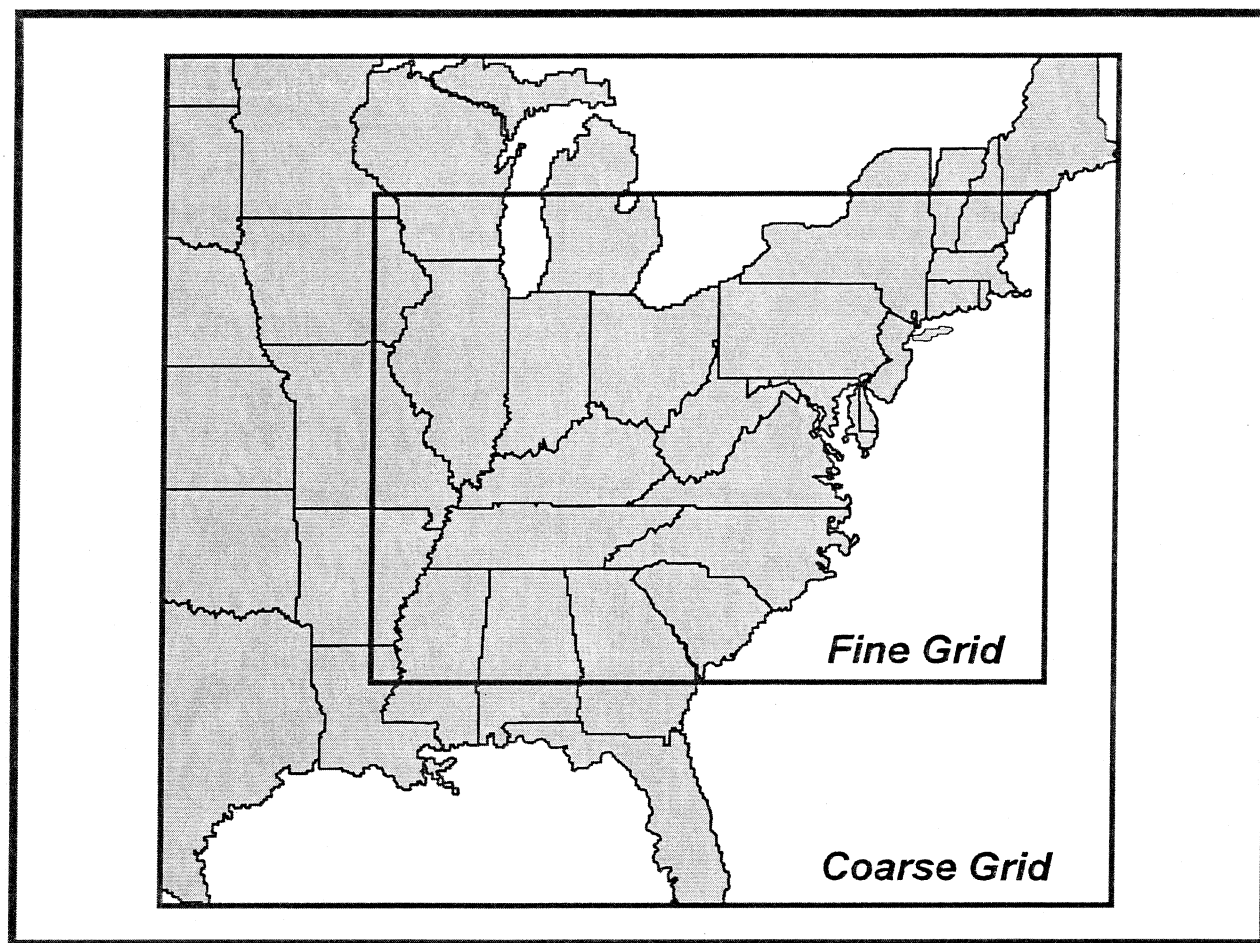
In its modeling, OTAG used grids drawn across most of the eastern half of the United States. The "fine grid" has grid cells of approximately 12 kilometers on each side (144 square kilometers). The "coarse grid" extends beyond the perimeter of the fine grid and has cells with 36 kilometer resolution. The fine grid includes the area encompassed by a box with the following geographic coordinates as shown in Figure 1, below: Southwest Corner: 92 degrees West longitude, 32 degrees North latitude; Northeast Corner: 69.5 degrees West longitude, 44 degrees North latitude (OTAG Final Report, Chapter 2). The OTAG could not include the entire Eastern U.S. within the fine grid because of computer hardware constraints.

It is important to note that there were three key factors directly related to air quality which OTAG considered in

determining the location of the fine grid-coarse grid line.²¹ (OTAG Technical Supporting Document, Chapter 2, pg. 6; www.epa.gov/ttnotag/otag/finalrpt/). Specifically, the fine grid-coarse grid line was drawn to: (1) Include within the fine grid as many of the 1-hour ozone nonattainment problem areas as possible and still stay within the computer and model run time constraints, (2) avoid dividing any individual major urban area between the fine grid and coarse grid, and (3) be located along an area of relatively low emissions density. As a result, the fine grid-coarse grid line did not track State boundaries, and Missouri and Georgia were among several States that were split between the fine and coarse grids. Eastern Missouri and northern Georgia were in the fine grid while western Missouri and southern Georgia were in the coarse grid.

²¹ In addition to these two factors, OTAG considered three other factors in establishing the geographic resolution, overall size, and the extent of the fine grid. These other factors dealt with the computer limitations and the resolution of available model inputs.

Figure 1: OTAG Modeling Domain



The analysis OTAG conducted found that emissions controls examined by OTAG, when modeled in the entire coarse grid (i.e., all States and portions of States in the OTAG region that are in the coarse grid) had little impact on high 1-hour ozone levels in the downwind ozone problem areas of the fine grid.²²

Based on OTAG's modeling and recommendations, the technical record for our final NO_x SIP Call rulemaking, and emissions data, we believe that emissions in the fine grid portions of Georgia and Missouri comprise a measurable or material portion of the entire State's significant contribution to downwind nonattainment. Specifically, OTAG's technical findings and recommendations state that areas located in the fine grid should receive additional controls because they contribute to ozone in other areas within the fine grid. In addition, we performed State-by-State modeling for

Georgia and Missouri as part of the final NO_x SIP Call rulemaking. The results of this modeling show that emissions in both Georgia and Missouri make a significant contribution to nonattainment in other States. Again, our finding of significant contribution was not disturbed by the Court, and the Court stated that the Georgia and Missouri industry petitioners challenging the rule did not challenge this part of the decision. *Michigan v. EPA*, 213 F.3d 681–82.

Examining the 2007 Base Case²³ NO_x emissions for Georgia indicates that the amount of NO_x emissions per square mile in the fine grid portion of the State is over 60 percent greater than in the coarse grid part. In Missouri, the amount of NO_x emissions per square mile in the fine grid portion of the State is more than 100 percent greater (i.e., more than double) than in the coarse grid part. Moreover, and as the Court pointed out, the fine grid portion of each State lies closer to downwind

nonattainment areas. *Michigan v. EPA*, 213 F.3d at 683. The OTAG concluded from its modeling that the closer an upwind area is to the downwind area, the greater the benefits in the downwind area from controls in the upwind area.

We see no reason to revise the existing determination that sources in the fine grid parts of Georgia and Missouri contribute significantly to nonattainment downwind. The basis for this determination continues to be: (1) The results of EPA's State-by-State modeling; (2) OTAG's fine grid-coarse grid modeling; (3) the relatively high amount of NO_x emissions per square mile in the fine grid portions of each State; and (4) the close locations of the fine grid portions of each State to downwind nonattainment areas compared to the coarse grid part, as described above. We are not making a finding today as to whether sources in the coarse grid portions of Georgia and/or Missouri make a measurable or material part of the significant contribution of each of these States, respectively. In this regard, as with the State of Wisconsin described below, we

²² The OTAG recommendation on Major Modeling/Air Quality Conclusions approved by the Policy Group, June 3, 1997 (62 FR 60318, Appendix B, November 7, 1997).

²³ The 2007 Base Case includes all control measures required by the CAA.

will look at the impacts of the coarse grid portions of Georgia and Missouri in conjunction with any further analysis on the remaining 15 OTAG States. In addition, apart from our findings relating to the SIP call, a State may, of course, assess the in-State impacts of NO_x emissions from its coarse grid area, and impose additional NO_x reductions, beyond the NO_x SIP Call requirements in the fine grid, as necessary to demonstrate attainment or maintenance of the ozone NAAQS in the State.

We are proposing to revise the NO_x budgets for Georgia and Missouri to

include only the fine grid portions of these States. The emissions reductions are therefore required from the fine grid portion of the State. For purposes of determining budgets for the fine grid portion, we believe that the OTAG longitude and latitude lines should be used with an adjustment to account for the fact that some counties have a portion of their emissions in both grids (*i.e.*, counties that straddle the line separating fine and coarse grids). Because of difficulties and uncertainties with accurately dividing emissions between the fine and coarse grid of

individual counties for the purpose of setting overall NO_x emissions budgets, we believe that the calculation of the emissions budgets should be based on all counties which are wholly contained within the fine grid. That is, counties which straddle the fine grid-coarse grid line or which are completely within the coarse grid are excluded from the budget calculations for Georgia and Missouri in today's proposal. The counties that we are including in the calculation of NO_x budgets for each of these States are listed in Table 1.

TABLE 1.—FINE GRID COUNTIES IN GEORGIA AND MISSOURI

Georgia:			
Baldwin	Effingham	Jefferson	Putnam
Banks	Elbert	Jenkins	Rabun
Barrow	Emanuel	Johnson	Richmond
Bartow	Evans	Jones	Rockdale
Bibb	Fannin	Lamar	Schley
Bleckley	Fayette	Laurens	Screven
Bulloch	Floyd	Lincoln	Spalding
Burke	Forsyth	Lumpkin	Stephens
Butts	Franklin	McDuffie	Talbot
Candler	Fulton	Macon	Taliaferro
Carroll	Gilmer	Madison	Taylor
Catoosa	Glascocock	Marion	Towns
Chattahoochee	Gordon	Meriwether	Treutlen
Chattooga	Greene	Monroe	Troup
Cherokee	Gwinnett	Morgan	Twiggs
Clarke	Habersham	Murray	Union
Clayton	Hall	Muscogee	Upson
Cobb	Hancock	Newton	Walker
Columbia	Haralson	Oconee	Walton
Coweta	Harris	Oglethorpe	Warren
Crawford	Hart	Paulding	Washington
Dade	Heard	Peach	White
Dawson	Henry	Pickens	Whitfield
De Kalb	Houston	Pike	Wilkes
Dooly	Jackson	Polk	Wilkinson
Douglas	Jasper	Pulaski	
Missouri:			
Bollinger	Iron	Oregon	St. Francois
Butler	Jefferson	Pemiscot	St. Louis
Cape Girardeau	Lewis	Perry	St. Louis City
Carter	Lincoln	Pike	Scott
Clark	Madison	Ralls	Shannon
Crawford	Marion	Reynolds	Stoddard
Dent	Mississippi	Ripley	Warren
Dunklin	Montgomery	St. Charles	Washington
Franklin	New Madrid	St. Genevieve	Wayne
Gasconade			

D. What Are We Proposing for Alabama and Michigan in Light of the Court Decision on Georgia and Missouri?

We are proposing to calculate Alabama's and Michigan's budgets in the same manner as Georgia and Missouri, as described above. While no petitioners raised any issues concerning the inclusion of only parts of Alabama and Michigan in the NO_x SIP Call, the Court's reasoning regarding Georgia and Missouri applies equally to Alabama and Michigan. Based on the information

in the record, we are proposing to revise the NO_x budgets for Alabama and Michigan to reflect reductions only in the fine grid portions of these States. Again, like Georgia and Missouri, we see no reason to disturb the determination that sources in the fine grid contribute significantly to nonattainment downwind. Like Georgia and Missouri, the fine grid portions of both Alabama and Michigan are closer to downwind 1-hour ozone nonattainment areas than the coarse grid parts of these States. Also, the amount

of NO_x emissions per square mile in the fine grid portion of Alabama is nearly 60 percent greater than in the coarse grid part; and in Michigan the fine grid NO_x emissions per square mile are more than 500 percent greater than emissions per square mile in the coarse grid portion of this State. Counties in Michigan and Alabama which straddle the fine grid-coarse grid are excluded from the budget calculations as described above for Georgia and Missouri. The counties in Alabama and Michigan that we are including in the calculation of NO_x

budgets for each of these States are listed in Table 2.

TABLE 2.—FINE GRID COUNTIES IN ALABAMA AND MICHIGAN

Alabama:				
Autauga	Colbert	Greene	Macon	St. Clair
Bibb	Coosa	Hale	Madison	Shelby
Blount	Cullman	Jackson	Marion	Sumter
Calhoun	Dallas	Jefferson	Marshall	Talladega
Chambers	De Kalb	Lamar	Morgan	Tallapoosa
Cherokee	Elmore	Lauderdale	Perry	Tuscaloosa
Chilton	Etowah	Lawrence	Pickens	Walker
Clay	Fayette	Lee	Randolph	Winston
Cleburne	Franklin	Limestone	Russell	
Michigan:				
Allegan	Eaton	Kalamazoo	Monroe	St. Clair
Barry	Genesee	Kent	Montcalm	St. Joseph
Bay	Gratiot	Lapeer	Muskegon	Sanilac
Berrien	Hillsdale	Lenawee	Newaygo	Shiawassee
Branch	Ingham	Livingston	Oakland	Tuscola
Calhoun	Ionia	Macomb	Oceana	Van Buren
Cass	Isabella	Mecosta	Ottawa	Washtenaw
Clinton	Jackson	Midland	Saginaw	Wayne

Today, we are proposing to revise the budgets for Alabama and Michigan in the SIP Call regulations to reflect only the fine grid portions of those States. As with Georgia and Missouri, the emissions reductions are therefore required from the fine grid portion of the State. We believe this approach is consistent with the reasoning of the Court's March 3, 2000 opinion concerning Georgia and Missouri and is justified as provided above.²⁴

E. What Modifications Will be Made to the NO_x Emissions Budgets?

Today, we are proposing a small change in the statewide emissions budgets. We are proposing to calculate the budgets in the same manner as the technical amendments (65 FR 11222, March 2, 2000) for purposes of defining EGUs. In addition, we are proposing a

range of possible control levels (82 to 91 percent) for the natural gas-fired lean-burn IC engines. For the other IC engine subcategories (natural gas fired rich burn, diesel, and dual fuel) we are proposing 90 percent control. Because the vast majority of large IC engines are natural gas fired and about two-thirds of these are lean-burn, we are applying the 82 and 91 percent reductions to all large IC engines for the purpose of roughly estimating this portion of the proposed budget. Therefore, we are proposing to revise the statewide emissions budgets to reflect this range of possible control levels. The final budgets will more precisely reflect the final rule's breakdown of control percentage per subcategory.

We are proposing to calculate the budgets for Georgia, Missouri, Alabama,

and Michigan assuming controls in all counties that are fully located in the fine grid, as discussed in sections II.C. and II.D. The partial State budgets for Georgia, Missouri, Alabama, and Michigan in today's action are calculated using 82 percent and 91 percent, as well as using the definition of EGUs as described above.

Our proposed budgets are shown in Tables 3–6. For States that have submitted Phase I SIPs, Tables 7 and 8 show the incremental difference between Phase I and Phase II budgets. Several States have already submitted SIPs that meet the entire budget. However, other States have submitted only a Phase I SIP. We propose to require those States to supplement their control plans with rules that will meet the proposed Phase II increment.

TABLE 3.—PROPOSED STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (82 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Connecticut	46,015	42,850	3,165	7
Delaware	23,797	22,862	935	4
District of Columbia	6,471	6,658	-187	-3
Illinois	368,870	271,091	97,779	27
Indiana	340,654	230,381	110,273	32
Kentucky	237,413	162,519	74,894	32
Maryland	103,476	81,947	21,529	21
Massachusetts	87,095	84,922	2,173	2
New Jersey	105,489	96,876	8,613	8
New York	255,658	240,322	15,336	6

²⁴ Pursuant to the court's order lifting the stay of the SIP submission obligation, the 20 States, including Alabama and Michigan, were required to submit SIPs in response to the SIP Call by October 30, 2000. As discussed above, in letters dated April

11, 2000 to State Governors, we provided that the States that remained subject to the SIP Call could choose to submit SIPs meeting only the Phase I emissions budget for each State. With respect to Alabama and Michigan, we also provided that

Alabama and Michigan could choose to submit SIPs that address emissions only in the fine grid portion of the State.

TABLE 3.—PROPOSED STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (82 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)—Continued
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
North Carolina	224,696	165,306	59,390	26
Ohio	373,222	249,541	123,681	33
Pennsylvania	345,203	257,928	87,275	25
Rhode Island	9,463	9,378	85	1
South Carolina	152,805	123,496	29,309	19
Tennessee	256,765	198,286	58,479	23
Virginia	210,786	180,521	30,265	14
West Virginia	176,699	83,921	92,778	53

TABLE 4.—PROPOSED STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (91 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Connecticut	46,015	42,850	3,165	7
Delaware	23,797	22,862	935	4
District of Columbia	6,471	6,658	-187	-3
Illinois	368,870	270,493	98,377	27
Indiana	340,654	229,913	110,741	33
Kentucky	237,413	162,242	75,171	32
Maryland	103,476	81,892	21,584	21
Massachusetts	87,095	84,838	2,257 3	
New Jersey	105,489	96,876	8,613	8
New York	255,658	240,285	15,373	6
North Carolina	224,696	164,987	59,709	27
Ohio	373,222	249,241	123,981	33
Pennsylvania	345,203	257,551	87,652	25
Rhode Island	9,463	9,378	85	1
South Carolina	152,805	123,056	29,749	19
Tennessee	256,765	198,015	58,750	23
Virginia	210,786	180,154	30,632	15
West Virginia	176,699	83,822	92,877	53

TABLE 5.—PROPOSED PARTIAL STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (82 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Georgia	209,914	150,656	59,258	28
Missouri	92,697	61,433	31,264	34
Alabama	169,156	119,827	49,329	29
Michigan	245,929	190,908	55,021	22

TABLE 6.—PROPOSED PARTIAL STATE EMISSIONS BUDGETS AND PERCENT REDUCTION (91 PERCENT IC ENGINE CONTROL & PROPOSED EGU DEFINITION)
[Tons/season]

State	Final base	Proposed budget	Tons reduced	Percent reduction
Georgia	209,914	150,246	59,668	28
Missouri	92,697	61,403	31,294	34
Alabama	169,156	119,290	49,866	29
Michigan	245,929	190,860	55,069	22

TABLE 7.—COMPARISON OF PHASE I AND PROPOSED PHASE II STATE NO_x BUDGETS COMPARISON (82 PERCENT IC ENGINE CONTROL)
[Tons/season]

State	Phase I budget	Proposed phase II budget	Phase II incremental difference
Alabama	124,795	119,827	4,968
Connecticut	42,891	42,850	41
Delaware	23,522	22,862	660
District of Columbia	6,658	6,658	0
Illinois	278,146	271,091	7,055
Indiana	234,625	230,381	4,244
Kentucky	165,075	162,519	2,556
Maryland	82,727	81,947	780
Massachusetts	85,871	84,922	949
Michigan	191,941	190,908	1,033
New Jersey	95,882	96,876	– 994
New York	241,981	240,322	1,659
North Carolina	171,332	165,306	6,026
Ohio	252,282	249,541	2,741
Pennsylvania	268,158	257,928	10,230
Rhode Island	9,570	9,378	192
South Carolina	127,756	123,496	4,260
Tennessee	201,163	198,286	2,877
Virginia	186,689	180,521	6,168
West Virginia	85,045	83,921	1,124

TABLE 8.—COMPARISON OF PHASE I AND PROPOSED PHASE II STATE NO_x BUDGETS COMPARISON (91 PERCENT IC ENGINE CONTROL)
[Tons/season]

State	Phase I budget	Proposed phase II budget	Phase II incremental difference
Alabama	124,795	119,290	5,505
Connecticut	42,891	42,850	41
Delaware	23,522	22,862	660
District of Columbia	6,658	6,658	0
Illinois	278,146	270,493	7,653
Indiana	234,625	229,913	4,712
Kentucky	165,075	162,242	2,833
Maryland	82,727	81,892	835
Massachusetts	85,871	84,838	1,033
Michigan	191,941	190,860	1,081
New Jersey	95,882	96,876	– 994
New York	241,981	240,285	1,696
North Carolina	171,332	164,987	6,345
Ohio	252,282	249,241	3,041
Pennsylvania	268,158	257,551	10,607
Rhode Island	9,570	9,378	192
South Carolina	127,756	123,056	4,700
Tennessee	201,163	198,015	3,148
Virginia	186,689	180,154	6,535
West Virginia	85,045	83,822	1,223

F. How Will the Compliance Supplement Pools Be Handled?

The compliance supplement pool is a pool of allowances that can be used in the beginning of the program to provide affected sources additional compliance flexibility in order to address concerns raised by commenters on the SIP Call proposal regarding electric reliability. In the SIP Call Rule, the compliance supplement pool may be used in the years 2003 and 2004 (see 63 FR 57428–

57430, October 27, 1998, for further discussion of the compliance supplement pool). In *Michigan*, the Court of Appeals for the District of Columbia Circuit ruled that May 31, 2004, rather than May 1, 2003 is the date by which sources must install controls to comply with the SIP Call. Consequently, to be consistent with the original 2-year window specified in the SIP Call in which we allowed the compliance supplement pool allowances to be used, we are extending

the time that allowances from the compliance supplement pool can be used from September 30, 2004 to September 30, 2005. We are also proposing to include compliance supplement pools for Georgia and Missouri. As under the original NO_x SIP Call, Georgia and Missouri may distribute the allowances in their respective pools either based on early reductions, directly to sources based on a demonstrated need, or by some combination of the two methods. (For a

more complete discussion of how compliance supplement pool allowances may be distributed under the NO_x SIP call *see* 63 FR 57429.) The allowances from Georgia's and Missouri's compliance supplement pools may be used to account for emissions during the first 2 years' ozone seasons that sources in those States are required to comply.

We are not proposing to change the individual State compliance supplement pool values that were finalized in the March 2, 2000 technical corrections to the emission budgets (65 FR 11222) with the exception of Alabama, Georgia, Michigan, Missouri, and Wisconsin. Changing the State compliance supplement pools to reflect the State budget changes made in this action would result in minimal impacts on the size of any State's compliance

supplement pool. Therefore, we have decided to maintain the compliance supplement pools at the levels determined in the March 2, 2000 technical amendment (with the exception of Alabama, Georgia, Michigan, Missouri, and Wisconsin).

Since the proposed required reductions in Georgia, Missouri, Alabama, and Michigan are less than the required reductions of the September 24, 1998 NO_x SIP Call reflecting full State emissions budgets, we propose to make corresponding decreases to the compliance supplement pools for the portion of each State that is still subject to the SIP Call. We propose to calculate the partial-State compliance supplement pools by prorating the size of the full-State compliance pool by the ratio of the reductions that we are proposing for the partial-State to the reductions that we

required in the March 2, 2000 Technical Amendment (65 FR 11222). However, to be consistent with the way the compliance supplement pool was calculated in the other States, we are assuming a 90 percent reduction from IC engines for purposes of calculating the compliance supplement pool. In addition, since Wisconsin is not being required to make reductions at this time, Wisconsin is no longer receiving a share of the compliance supplement pool. (Wisconsin's original compliance supplement pool was 6,920 tons.) For these reasons, the total compliance supplement pool is now less than 200,000 tons. The revised compliance supplement pools for Georgia, Missouri, Alabama, and Michigan are shown in Table 9.

TABLE 9.—COMPLIANCE SUPPLEMENT POOLS (CSP)

	Full state tons reduced (from March 2, 2000 FR)	Partial state tons reduced with 90% IC engine control	Full state CSP	Partial state CSP reduced with 90% IC engine control
GA	63,582	57,623	11,440	10,728
MO	62,242	31,291	11,199	5630
AL	64,954	49,806	11,687	8962
MI	63,118	55,064	11,356	9907

G. Will the EGU Budget Changes Affect the States Included in the Three-State Memorandum of Understanding?

In February 1999, Connecticut, Massachusetts, Rhode Island, and EPA signed a Memorandum of Understanding (the three-State MOU). The three-State MOU redistributed Connecticut, Massachusetts, and Rhode Island's EGU emissions budgets to minimize the size differential between their EGU budgets under the NO_x SIP Call and Phase III of the Ozone Transport Commission (OTC) NO_x Budget program. It also reallocated the three States' compliance supplement pools.

Under the three-State MOU, Connecticut, Massachusetts, and Rhode Island would collectively be meeting their NO_x SIP Call reduction responsibilities because the budget redistribution did not result in a higher combined overall EGU budget for the three States. We took action to implement the three-State MOU and concurrently published proposed and direct final rules on September 15, 1999 (64 FR 50036 and 49987). We subsequently withdrew the direct final rule on November 1, 1999 due to the receipt of adverse comment (64 FR 58792). The EGU budgets proposed in

today's action would not affect the EGU budgets for Connecticut, Massachusetts, and Rhode Island that we proposed in response to the three-State MOU. We did not finalize the proposal to act on the three State MOU. Instead, we proposed to approve the three State's NO_x SIP call SIP submittals, with budgets that reflected the three-State MOU, as collectively meeting their NO_x SIP call budgets. We did not receive any comments on the proposed approval of these three State's SIPs and finalized approval of them on December 27, 2000.

H. How Does the Term "Budget" Relate to Conformity Budgets?

We wish to clarify that the use of the term "budget" in this action does not refer to the transportation conformity rule's use of the term "motor vehicle emissions budget," defined at 40 CFR 93.101. The budgets proposed today do not set budgets for specific ozone nonattainment areas for the purposes of transportation conformity. Transportation conformity budgets cannot be tied directly to the SIP Call budgets because the latter are for all or a large part of the State and the former are nonattainment-area-specific. For nonattainment or maintenance areas in a State covered by the SIP Call, transportation conformity budgets must

reflect the mobile source controls assumed in the SIP Call budgets to the extent that the attainment SIP ultimately relies upon those controls.

I. How Will Partial-State Trading Be Administered?

In the final NO_x SIP Call, we offered to administer a multi-State NO_x Budget Trading Program for States affected by the NO_x SIP Call. In today's action, we are proposing to include only partial State budgets for Alabama, Georgia, Michigan, and Missouri. Therefore, we are offering to administer a trading program for the NO_x SIP Call region that, for these four States, includes only the portion of the States proposed for inclusion in the NO_x SIP Call. In the final NO_x SIP Call, as well as the January 18, 2000 final rulemaking on the original eight Section 126 petitions, we authorized sources in States affected by either the NO_x SIP Call or the Section 126 rulemaking to trade with each other through the mechanisms of the NO_x Budget Trading Program provided certain criteria were met. These criteria included that States must be subject to the NO_x SIP Call and that States must meet the emission control level under the final rule for the NO_x SIP Call. The justification for allowing trading across States is the test of

significant contribution which underlies both the Section 126 rulemaking and the NO_x SIP Call. Therefore, at this time, only sources in the portions of the States for which a finding of significant contribution has been made and budgets have been established would be allowed to participate in trading with sources in States which are subject to either the NO_x SIP Call or the Section 126 rulemaking.

J. What SIP Submittal Dates Are We Proposing?

In today's action, we are proposing a range of due dates for States to submit SIPs meeting the Phase II NO_x budgets and the partial State budgets for Georgia and Missouri. We believe that the appropriate timeframe to consider for SIP submittal is 6 months to 1 year from final promulgation of this rulemaking but no later than April 1, 2003, and we request comment on which date within this timeframe is appropriate. We believe that a deadline within this range will allow adequate time for States to promulgate rules, and for sources affected by a State's Phase II NO_x strategy and by Georgia and Missouri's NO_x strategy to comply with the regulations by the dates proposed in this action. Please see section K, below, for a discussion of the compliance dates.

In establishing the end of the range, *i.e.*, April 1, 2003, we considered the fact that the original NO_x SIP Call Rule allowed 12 months from the date of promulgation for SIPs to be due. We are hopeful that we will finalize this rulemaking in Spring 2002. The purpose of having an end date to the range is to ensure that sources can comply by the dates discussed below, which will ensure that the reductions necessary to minimize ozone transport occur expeditiously.

We believe that a SIP submittal due date within the proposed range would give States adequate time to adopt rules and give sources adequate time to install control equipment needed to comply.

K. What Compliance Dates Are We Proposing?

There are two primary issues that need to be considered when determining a reasonable date by which EGUs covered by any Phase II SIPs or by SIPs in Georgia and Missouri, can install controls to achieve the emissions reductions required:

(1) How long does it take to complete the design, construction, and testing of the controls on large boilers used to generate electricity?

(2) Does the amount of time that EGUs are taken off-line to install controls adversely affect the reliability of the

electric power system? In other words, does installation of controls reduce the amount of available generation to the point where no power can be supplied to certain users for a period of time?

We believe control equipment can generally be applied in an expeditious manner. For example, controls on IC engines may be installed in less than 1 year. States that choose to control large EGUs, however, may experience longer timeframes for installation of post-combustion controls. For this reason, we analyzed the timeframe required to install controls on large EGUs as part of our decision on the appropriate compliance date to set.

In an effort to remain consistent with the August 30, 2000 Court of Appeals' decision regarding the compliance date for Phase I of the NO_x SIP Call, we are proposing a compliance date of May 31, 2004 for Phase II sources. We are proposing a May 1, 2005 compliance date for affected sources in Georgia and Missouri. We request comment on the feasibility of these compliance dates.

Given a Phase II SIP submittal date as late as April 1, 2003, owners and operators of affected units subject to State control requirements would have about 13 months, and affected units in Georgia and Missouri would have about 25 months to install the necessary controls.

The discussion below supports a Phase II SIP submittal date as late as April 1, 2003 for the 19 States and District of Columbia, as well as for Georgia and Missouri. Of course, adopting and submitting the SIP earlier would provide additional time for the installation of controls.

1. What Is the Technical Feasibility of the Compliance Dates?

Under Section 126, we issued a final rule determining that sources in nine jurisdictions (Delaware, District of Columbia, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia) and portions of four other jurisdictions (Indiana, Kentucky, Michigan, and New York) named in the NO_x SIP Call significantly contribute to nonattainment in one or more of the petitioning States. As finalized by EPA, that rule directly regulated sources within the 13 States and required compliance by May 1, 2003 (64 FR 28250, May 25, 1999 and 65 FR 2674, January 18, 2000). On August 24, 2001, the D.C. Circuit issued an order in the *Appalachian Power-126 Case*, tolling the date for implementing the controls required under the Section 126 Rule. Our analysis of the time needed to comply with the Phase II rulemaking is still applicable as long as sources are

required to comply with the Section 126 requirements by May 31, 2004. In addition, as part of the OTC NO_x Budget Program, the remaining Northeast States covered in today's action (Connecticut, Massachusetts, New York and Rhode Island) have submitted SIPs, which we have approved, to comply by May 1, 2003 with the NO_x SIP Call.

We examined the time needed to install the post-combustion controls (SCR and SNCR) on large boilers used to generate electricity because they represent the most time-consuming NO_x control retrofits. In this feasibility analysis, we looked at the retrofits we projected were needed for affected units in Georgia and Missouri and Phase II units in the remaining States to comply with the NO_x SIP Call. These remaining States include: Alabama, Georgia, Illinois, Missouri, South Carolina, and Tennessee and portions of Indiana, Kentucky, and Michigan.

We believe that if States (other than Georgia and Missouri) submit SIPs by April of 2003, there is still sufficient time for sources to install the necessary controls by May 31, 2004. To determine the amount of time involved, we analyzed which sources would reasonably be expected to be subject to the Phase II rule. While States may meet the requirements of the SIP Call by requiring reductions from any sources that are available, most States, as a means of compliance with Phase I of the SIP Call, are choosing to require reductions from the same group of sources that we considered in determining the budgets. Therefore, we believe it is reasonable to assume that States will also regulate, as part of their Phase II compliance strategy, the same sources that we used to develop the Phase II budgets.

Our analysis showed that under Phase II, and assuming the multi-state trading program, three small coal-burning units would elect to install SNCR control technology (September 2000 Feasibility memorandum, docket # A-96-56, item # XII-K-46). We projected that most of the other units would not need to install post-combustion controls because they were either already under an emission rate of 0.15 lbs/mmbtu, or they were infrequently operated sources that would find it more economical to purchase allowances than to install post-combustion control equipment. Although installation of SNCR may in some cases be time-consuming, we believe that these sources will be able to comply by the May 31, 2004 compliance date for several reasons. First, we are setting emission budgets for the year 2004 based on a 5-month ozone season. Because States are required to submit

SIPs that demonstrate compliance with only a 4-month period in 2004, their emission budgets will be larger than needed to meet an emission cap of 0.15 lbs/mmBtu in 2004. Therefore, States will have more than their sources need to achieve the 0.15 lb/mmBtu level in 2004. The States will have flexibility to allocate these allowances recognizing that some sources—such as the three sources noted above—may need extra time to comply.

Furthermore, even though we projected that it would take 19 months to install SNCR, the actual installation process is projected to take only 8 months. The majority of the 19-month installation is related to obtaining a construction permit (9 months). Because sources should have a strong indication of whether they are going to be regulated under a State's Phase II rulemaking before the rulemaking is complete, sources could begin this process before a State's rule was finalized. In addition, because only a small number of sources are involved, States may have opportunities to expedite their construction permitting process.

However, for sources in the fine-grid portions of Georgia and Missouri, we propose a May 1, 2005 compliance date. This date will give them 25 months to install necessary controls if States submit SIPs by April 1, 2003. In Missouri, at most three installations of SNCR are projected, or two installations of SCR and one installation of SNCR. In Georgia, installations would be not more than seven SNCRs, or two SCRs and one SNCR. In our analysis, we projected that two SCRs and one SNCR could be installed in less than 25 months and that seven SNCR's could be installed in 23 months (September 2000 Feasibility memorandum, docket # A-96-56, item # XII-K-46). Furthermore, sources in both Georgia and Missouri are already installing some post-combustion controls to come into compliance with ozone nonattainment SIPs. In addition, because much of the work that will be done in Georgia and Missouri will be done after post-combustion controls have been installed in many other States, sources in these States will be able to take advantage of expertise gained in these other installations to reduce the amount of time required to install the controls. For these reasons, we believe the May 1, 2005 implementation date is feasible for Georgia and Missouri.

We are also aware that States could choose to utilize the compliance supplement pool to assist units that demonstrate a need for a longer compliance timeframe, particularly, the

small number of units in Phase II States that might decide to install post-combustion controls. Furthermore, sources could choose to use the trading system to help meet these compliance dates, either by purchasing credits from other parties or by banking emissions at other units they control and using those credits as needed.

2. How Will This Affect Electric Reliability?

Concerns about electric reliability arise whenever units are down, particularly during periods of peak demand. Since units may need to be off-line for longer periods of time to install emission controls than they normally would be if the units were just being shut down to perform other scheduled maintenance, the installation of emission controls may increase concerns about reliability. The potential impact varies depending on the number of units that have to install controls, the additional time that these units have to be taken off-line, and the number of units that are off-line at one time.

We do not anticipate that the installation of NO_x controls, including SCR, will threaten the reliability of the power supply, even during the summer months when the demand for electricity is highest. Since SCR is a post-combustion control device that is not part of the boiler, most of the SCR retrofit can be constructed while the boiler is operating to supply electricity. The boiler needs to be turned off only when the SCR is actually connected to the ducts leaving the boiler. Owners and operators of electric power plants normally schedule connections of these controls during off-peak periods (usually spring or fall), when they already plan to shut down the unit to perform other scheduled maintenance.

The EPA and industry groups examined the reliability of the power supply in the context of a May 2003 compliance date for the entire NO_x SIP Call region. Based on these studies, we concluded that installation of NO_x controls for the entire NO_x SIP Call region (including Phase I and Phase II affected units and affected units in Georgia and Missouri) by May 1, 2003 will not threaten the reliability of the electric power supply. Therefore, we conclude that providing additional time (an additional year and 1 month) for the installation of controls on some of the affected units further ensures that the reliability of the electric power supply will not be threatened by this rule.²⁵

²⁵ We assumed that sources in States affected under the OTC MOU and the Section 126 action will install controls by May 1, 2003, but sources in

a. Reliability in Georgia and Missouri. In the final NO_x SIP Call and the final Section 126 Rule, we included the compliance supplement pool to address commenters' concerns regarding electricity reliability. Therefore, to remain consistent with the intent of the original NO_x SIP Call, we are proposing to include compliance supplement pools for Georgia and Missouri. As under the original NO_x SIP Call, Georgia and Missouri may distribute the allowances in their respective pools either based on early reductions, directly to sources based on a demonstrated need, or by some combination of the two methods. (For a more complete discussion of how compliance supplement pool allowances may be distributed under the NO_x SIP Call See 63 FR 57429.) The allowances from the pools may be used to account for emissions during the first two ozone seasons that Georgia and Missouri are required to comply, which under this proposal would be in 2005 and 2006. The size of their compliance supplement pools have been adjusted to account for the proposed change in geographic coverage. See section II.F. of today's action for a complete discussion of how the size of Georgia and Missouri's compliance supplement pools were calculated.

With a later compliance date (May 1, 2005 as proposed) than the rest of the SIP Call region and the Section 126 region, we believe that concerns about the risk to electric reliability due to the installation of controls in Georgia and Missouri are not justified. Sources in both Georgia and Missouri are expected to install some NO_x controls before May 1, 2005 as part of the States' ozone attainment plans. Furthermore, by May 1, 2005, we expect there to be an active NO_x allowance market on which sources in Georgia and Missouri could rely should they experience an unexpected delay in installing controls.

L. What Are We Proposing for Wisconsin?

In the NO_x SIP Call litigation, the Wisconsin industry petitioners argued that the emissions from Wisconsin do not contribute significantly to nonattainment in any other State. Section 110(a)(2)(D)(i)(I) requires that a State "contribute significantly to

the other States affected by the SIP Call (Alabama, Illinois, South Carolina, Tennessee and portions of Indiana, Kentucky, and Michigan) will have until May 31, 2004 to install controls. In this action, we are proposing that Georgia and Missouri will have until May 1, 2005 to install controls. Sources that will not have to complete installation of controls until May 31, 2004 represent approximately 40 percent of the generation capacity in the SIP Call Region.

nonattainment in * * * any other State” in order to be included in the challenged SIP Call. 42 U.S.C. 7410(a)(2)(D)(i)(I). The Court held that “EPA erroneously included Wisconsin in the NO_x SIP Call because EPA failed to explain how Wisconsin contributes to nonattainment in *any other State*,” 213 F.3d at 361 (emphasis in original). The Court noted that the record showed only that emissions from Wisconsin contribute to violations of the standard over Lake Michigan.

Our “zero-out” modeling of Wisconsin emissions using UAM-V shows that emissions from Wisconsin impact ozone levels in neighboring States, but not during exceedances of the 1-hour NAAQS (*i.e.*, these impacts occur when ozone levels are below the NAAQS). For the OTAG episodes we modeled, the ozone impacts of Wisconsin on 1-hour nonattainment are predicted in the northwestern part of Lake Michigan near the shore line of Wisconsin. In the NO_x SIP Call rulemaking, we concluded that impacts over the lake should be considered as contributions to States bordering the lake (*i.e.*, Michigan, Indiana, and Illinois) because of lake breeze effects (63 FR 57386, October 27, 1998). The Court found that we had not provided adequate support for this determination and vacated the rule’s application to Wisconsin for the 1-hour standard (*Michigan v. EPA*, 213 F.3d at 681).

We agree that additional modeling would be necessary in order to find that Wisconsin significantly contributes to downwind 1-hour nonattainment in any other State and to include Wisconsin in the NO_x SIP Call at this time. Since we do not currently have the modeling necessary to make such a proposal, we intend to exclude the entire State of Wisconsin from the requirements of the 1-hour basis of the NO_x SIP Call to conform to the Court’s decision.

We are not, however, proposing to determine that Wisconsin’s emissions do not contribute significantly to nonattainment downwind. We have not completed the additional modeling analysis for the States that are part of the OTAG region but were not included in the final NO_x SIP Call. In the final NO_x SIP Call, we took no action on whether emissions from sources in 15 States²⁶ in the OTAG region do or do not contribute significantly to downwind nonattainment, or interfere with maintenance downwind, under either the 1-hour or the 8-hour ozone

NAAQS. We will continue to review available information on the downwind impacts of these States. We plan to look at the impacts of Wisconsin in conjunction with any further analysis on the remaining 15 States. To date, we have stayed the 8-hour basis of the SIP Call Rule (65 FR 56245, September 18, 2000) and the Court has stayed consideration of the 8-hour basis of the SIP Call Rule. Today’s action to exclude Wisconsin from the 1-hour basis of the SIP Call does not address whether Wisconsin should remain subject to the 8-hour basis of the SIP Call. We will address that issue at the time it lifts the stay as it applies to Wisconsin.

M. How Are the 8-Hour NAAQS Rules Affected by This Action?

As noted above, the revisions to the NO_x SIP Call proposed in today’s action respond to the Court’s decision in *Michigan v. EPA*. The Court’s decision and today’s proposal concern issues arising under only the 1-hour ozone NAAQS, and not the 8-hour NAAQS. Accordingly, none of the actions proposed today—the definition of EGU and the control requirements for IC engines, and implications for the State budgets; the SIP submission dates; the revised emissions budgets for Alabama, Georgia, Michigan, and Missouri; and the exclusion of Wisconsin—if finalized, would have any effect on any requirements of the SIP Call on States under the 8-hour NAAQS. Because of the litigation concerning the 8-hour ozone NAAQS, we have stayed all of the requirements of the SIP Call under the 8-hour NAAQS, ranging from the SIP submission dates to the control requirements (65 FR 56245, September 18, 2000). After the litigation concerning the 8-hour NAAQS is resolved, we will determine whether to proceed with the 8-hour requirements under the SIP Call.

III. What Are the Administrative Requirements?

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is “significant” and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the

environment, public health or safety, or State, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

This proposed action, which responds to the court decisions in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (NO_x SIP Call); *Appalachian Power v. EPA*, 249 F.3d 1032 (D.C. Cir. 2001) (Section 126 Rule), and *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001) (NO_x SIP Call Technical Amendments), is a “significant regulatory action” under Executive Order 12866 because it raises novel legal or policy issues and is, therefore, subject to review by OMB.

Since this is a “significant regulatory action,” a Regulatory Impact Analysis (RIA) is required. We are using the original RIAs prepared for the three actions at issue in the cases listed above [“Regulatory Impact Analysis for the NO_x SIP Call, FIP, and Section 126 Petitions” (Docket A-96-56)] and [“Regulatory Impact Analysis for the Final Section 126 Rule” (Docket A-97-43)], which contain cost and benefit analyses and economic impact analyses reflecting requirements of those rules. In addition, we are using an update to some of the information in the final NO_x SIP Call RIA entitled, “NO_x Emissions Control Costs for Stationary Reciprocating Internal Combustion Engines in the NO_x SIP Call States” (August 11, 2000), an analysis prepared for the IC engine portion of this action. This analysis indicates that there is less cost incurred per engine than shown in the original RIA which was prepared for the final NO_x SIP Call. This document is available for public inspection in Docket A-96-56 which is listed in the ADDRESSES section of this preamble.

B. Executive Order 12898: Environmental Justice

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). For the final NO_x SIP Call and Section 126 Rules, the Agency conducted general analyses of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of these rules. These

²⁶ Arkansas, Florida, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, North Dakota, Nebraska, New Hampshire, Oklahoma, South Dakota, Texas, Vermont.

findings were presented in the RIA for each of these rules. Today's action does not affect these analyses.

C. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children and it is not economically significant under Executive Order 12866.

D. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue

a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed action addressing the NO_x SIP Call and Section 126 Rules does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

In issuing the SIP Call, EPA acted under section 110(k)(5), which requires the Agency to require a State to correct a deficiency that EPA has found in the SIP. In October 1998, EPA issued its final SIP Call Rule finding that the SIPs for 22 States and the District of Columbia were substantially inadequate because they did not regulate emissions that significantly contribute to downwind nonattainment in other States. On March 3, 2000, the D.C. Circuit largely upheld that rule but remanded certain minor issues and vacated and remanded other minor issues to the Agency for further consideration. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000) (NO_x SIP Call). Today, EPA is proposing action on these remanded and remanded and vacated portions of the rule. This action also responds to an issue that the court remanded and vacated in the challenge to the NO_x SIP Call Technical Amendments. *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001) (NO_x SIP Call Technical Amendments).

With respect to the proposed action concerning the definition of EGU and the level of control for internal combustion engines, the proposed action revising the emission budgets for Georgia, Missouri, Alabama, and Michigan, and the SIP submission and source compliance dates, EPA's proposal does not impose any additional burdens beyond those imposed by the final NO_x SIP Call. Thus, today's action does not alter the relationship established by the final SIP Call Rule, which remains in place for 19 States (including Alabama and Michigan) and the District of Columbia. Moreover, no aspect of the proposed rule changes the established relationship between the States and EPA under title I of the CAA. Under title I of the CAA, States have the primary responsibility to develop plans to attain and maintain the NAAQS. As found by the court, the States have full discretion under the SIP Call Rule to choose the control requirements necessary to

address the transported emissions identified by EPA in the SIP Call.

As provided in the final action promulgating the SIP Call and the Technical Amendments, the SIP Call will not impose substantial direct compliance costs. While the States will incur some costs to develop the plan, those costs are not expected to be substantial. Moreover, under section 105 of the CAA, the Federal government supports the States' SIP development activities by providing partial funding of State programs for the prevention and control of air pollution. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Today's rule also responds to the Court's decision in *Appalachian Power v. EPA*, 249 F.3d 1032 (D.C. Cir. 2001) (Section 126 Rule). This action imposes no new requirements that impose compliance burdens beyond those that EPA established under the final Section 126 Rule (January 18, 2000).

E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's action does not significantly or uniquely affect the communities of Indian tribal governments. The EPA stated in the final NO_x SIP Call Rule, the Technical Amendments Rule, and the Section 126 Rule that Executive Order 13084 did not apply because those final rules do not significantly or uniquely affect the communities of Indian tribal governments or call on States to regulate NO_x sources located on tribal lands. The same is true of

today's action. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This summary of the energy impact analysis report estimates the energy impacts associated with the Phase II portion of the NO_x SIP Call, in accordance with Executive Order 13211. It covers all EGUs that do not participate in the Acid Rain Trading Program and reciprocating internal combustion engines (RICE) in the District of Columbia and the 21 States of the NO_x SIP Call region, as well as all NO_x SIP Call sources (cement kilns, utility boilers, industrial boilers, combustion turbines, and RICE) in the fine grid portions of Georgia and Missouri. In addition, this analysis does not consider impacts on sources in the coarse grid portions of Michigan and Alabama since these sources are not covered in the Phase II rulemaking. The Agency identified applications of control devices appropriate for this analysis that provide high levels of NO_x reduction at relatively low cost, with an average cost of less than \$2,000 (1990 dollars) per ozone season ton of NO_x removed, among them: SCR and NSCR, fluid injection (steam or ammonia—termed SNCR), and LEC. Through its analysis, the Agency identified three relevant energy effects that occur during normal operation of these devices: increased energy demands required by control devices and equipment, increased energy use due to pressure drop and changes in the stoichiometry of the combustion process, and energy credits from improved combustion. Each of these NO_x controls has at least one of these energy effects as part of their normal operation.

The United States consumed over 22 quads (quadrillion Btus) of natural gas in 1999.²⁶ With respect to energy sources, the application of LEC technology to natural gas-driven internal combustion (IC) engines amounts to a savings of about 4,000 million British thermal units (MMBtus) per unit, or about 70 billion Btus for all affected IC engines (about 70 million cubic feet of gas). This amounts to about

three tenths of one percent of the nation's annual consumption. Consequently, the application of LEC technology leads to a small savings in natural gas use nationwide by affected sources and their firms, but not a large enough savings to affect the price or distribution of gas in the United States.

The additional coal necessary to compensate for the loss of efficiency from SCR and SNCR controls amounts to about 11 MMBtus per affected coal-fired boiler, or 89 MMBtus per year per source. For all affected utility and industrial coal-fired boilers, this translates to slightly more than 70 billion Btus. The United States also consumed over 22 quads of coal in 1999. Therefore, the net increase in coal consumption necessary for affected boilers to compensate for their efficiency loss amounts to about three ten-thousandths of one percent of the nation's annual demand for coal. The change in demand for coal caused by NO_x control efficiency loss will not be of sufficient magnitude to affect coal prices. In addition, the reduction in electricity output in response to the requirements of the Phase II NO_x SIP all rulemaking is less than one-half of one percent of predicted nationwide output between 2005 and 2010 (to approximate a 2007 projection). Because utilities constantly adjust their output to match demand, and because demand fluctuates more widely than the predicted reduction in electricity output from the Phase II rulemaking, this report indicates there will be no significant effect on production or the factors of production imposed by the NO_x SIP Call for affected boilers.

Therefore, we conclude that the proposed rule when implemented is not likely to have a significant adverse effect on the supply, distribution, or use of energy. For more information on the results of this analysis, please consult the energy impact analysis report in the public docket for this rule.

G. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with "Federal mandates" 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 in any 1 year. A "Federal mandate" is defined to include

a "Federal intergovernmental mandate" and a "Federal private sector mandate" (2 U.S.C. 658(6)). A "Federal intergovernmental mandate," in turn, is defined to include a regulation that "would impose an enforceable duty upon State, local, or tribal governments," (2 U.S.C. 658(5)(A)(i)), except for, among other things, a duty that is "a condition of Federal assistance" (2 U.S.C. 658(5)(A)(II)). A "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector," with certain exceptions (2 U.S.C. 658(7)(A)).

The EPA prepared a statement for the final NO_x SIP Call that would be required by UMRA if its statutory provisions applied. Today's action does not create any additional requirements beyond those of the final NO_x SIP Call, therefore no further UMRA analysis is needed.

An Unfunded Mandates Analysis was prepared for the proposed Section 126 Rule which was published on May 25, 1999. The EPA updated this analysis for the final Section 126 Rule (January 18, 2000). This "Government Entity Analysis for the Final Section 126 Petitions Under the Clean Air Act Amendments Title I," is available for public inspection in Docket A-97-43 which is listed in the ADDRESSES section of this preamble. This analysis determined that the final 126 rulemaking contained no regulatory requirements that might significantly or uniquely affect small governments. Today's action imposes no new additional requirements above those established in the final Section 126 Rule.

H. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA) regulations at 13 CFR 12.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or

²⁶ National Energy Foundation web page: <http://www.nef1.org/ea/eastats.html>.

special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed action will not impose any requirements on small entities. This action responds to the court decisions in *Michigan v. EPA*, 213 F.3d 663, *Appalachian Power v. EPA*, 249 F.3d 1032 (D.C. Cir. 2001), and *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001) (decisions on the NO_x SIP Call, Section 126 Rule, and NO_x SIP Call Technical Amendments, respectively). The RIA for the original final NO_x SIP Call included impacts to small entities presuming the application of the control strategies we modeled as surrogates for what the States would actually employ in their NO_x SIPs. We also prepared an analysis of impacts to small entities affected by the Section 126 Rule. This analysis is summarized in the RIA for the final Section 126 Rule and included in the docket for that rule. This action does not impose any requirements on small entities nor will there be impacts on small entities beyond those, if any, required by or

resulting from the NO_x SIP Call and the Section 126 Rules.

I. Paperwork Reduction Act

Today's action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and therefore is not subject to these requirements.

J. National Technology Transfer and Advancement Act

In addition, the National Technology Transfer and Advancement Act of 1997 does not apply because today's proposed action does not require the public to perform activities conducive to the use of voluntary consensus standards under that Act in the NO_x SIP Call, and NO_x SIP Call Technical Amendments. Today's proposed action also does not impose additional requirements over those in the final Section 126 Rule. The EPA's compliance with these statutes and Executive Orders for the underlying rules, the final NO_x SIP Call (63 FR 57477, October 27, 1998), the NO_x SIP Call Technical Amendments (64 FR 26298, May 14, 1999; 65 FR 11222, March 2, 2000), and the final Section 126 Rule (65 FR 2674, January 18, 2000) is discussed in more detail in the citations shown above.

The EPA is not proposing rule language in today's document. In the

final rulemaking action in this proceeding, EPA will adopt rule language implementing the final action.

List of Subjects

40 CFR Part 51

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

40 CFR Part 52

Air pollution control, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 96

Administrative practice and procedure, Air pollution control, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 97

Administrative practice and procedure, Air pollution control, Intergovernmental Relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: February 12, 2002.

Christine T. Whitman,
Administrator.

[FR Doc. 02-3917 Filed 2-21-02; 8:45 am]

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Federal Register

**Friday,
February 22, 2002**

Part V

Department of Housing and Urban Development

**Notice of Funding Availability (NOFA);
Fair Share Allocation of Incremental
Voucher Funding, Fiscal Year 2002;
Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4726-N-01]

Notice of Funding Availability (NOFA); Fair Share Allocation of Incremental Voucher Funding, Fiscal Year 2002

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability.

SUMMARY: *Purpose of the NOFA.* The purpose of this NOFA is to invite public housing agencies (PHAs) to apply for vouchers on a fair share allocation basis under the Housing Choice Voucher Program. The vouchers are for issuance to families on a PHA's housing choice voucher waiting list to enable these families to access decent, safe, and affordable housing of their choice on the private rental market.

Available Funds. Approximately \$103,979,000 in one-year budget authority for approximately 18,000 housing choice vouchers. Prior to the funding of any new applications under this NOFA for FY 2002, \$8,881,265 of this budget authority will be used to fund 1,540 vouchers for 13 PHAs that were erroneously omitted from the selection process under the FY 2001 Fair Share NOFA. See section II(C)(3) of this NOFA regarding the specific PHAs, dollar amounts and corresponding number of vouchers that each of the 13 PHAs will receive. This will leave \$95,097,735 in one-year budget authority available for the funding of approximately 16,460 vouchers for applications submitted in FY 2002 under this NOFA. Also, see the note at the bottom of Appendix A of this NOFA which fully addresses deductions from funding for allocation areas in order to fund these 13 previously unfunded PHAs.

Eligible Applicants. Public housing agencies (PHAs). PHAs that fall into any of the categories in section VII(B)(2) of this NOFA are ineligible to have an application funded under this NOFA. Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible applicants. The Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Due Date. March 25, 2002.

Match. None.

Additional Information

If you are interested in applying for funding under this NOFA, please read the balance of this NOFA which will provide you with detailed information regarding the submission of an application, Housing Choice Voucher Program requirements, the application selection process to be used by HUD in selecting applications for funding, and other valuable information relative to a PHA's application submission and participation in the program covered by this NOFA.

I. Application Due Date, Application Kits, Further Information, and Technical Assistance

Application Due Date. Your completed application (an original and one copy) is due on or before March 25, 2002, at the address shown below. This application deadline is firm. In the interest of fairness to all competing PHAs, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Address for Submitting Applications. Submit your original application and one copy to Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW., Suite 800, Washington, DC 20024.

The Grants Management Center (GMC) is the official place of receipt for all applications in response to this NOFA. Applications not submitted to the GMC will not be considered. A copy of the application is not required to be submitted to the local HUD Field Office. For ease of reference, the term "local HUD Field Office" will be used in this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

New Security Procedures. In response to the terrorist attacks in September 2001, HUD has implemented new security procedures that impact on application submission procedures. Please read the following instructions carefully and completely. HUD will not accept hand delivered applications. Applications may be mailed using the United States Postal Service (USPS) or may be shipped via the following delivery services: United Parcel Service (UPS), FedEx, DHL, or Falcon Carrier.

No other delivery services are permitted into HUD Headquarters without escort. You must, therefore, use one of the four carriers listed above.

Mailed Applications. Your application will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received by the GMC within fifteen (15) days of the application due date. *All applicants must obtain and save a Certificate of Mailing showing the date when you submitted your application to the USPS.* The Certificate of Mailing will be your documentary evidence that your application was timely filed.

Applications Sent By Overnight/Express Mail Delivery. If your application is sent by overnight delivery or express mail, your application will be timely filed if it is received by the GMC before or on the application due date, or when you submit documentary evidence that your application was placed in transit with the overnight delivery/express mail service by no later than the application due date. Due to new security measures, you must use one of four carrier services that do business with HUD Headquarters regularly. These services are UPS, DHL, FedEx, and Falcon Carrier. Delivery by these services must be made during HUD's Headquarters business hours, between 8:30 AM and 5:30 PM, Eastern Time, Monday to Friday. If these companies do not service your area, you should submit your application via the SUPS.

Application Kit Not Required. An application kit is not available and is not necessary for submitting an application for funding under this NOFA. This NOFA contains all of the information necessary for the submission of an application for voucher funding in connection with this NOFA.

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Room 4216, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1872, ext. 4064. Subsequent to application submission, you may contact the Grants Management Center at (202) 358-0221. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

II. Authority, Purpose, Fair Share Allocation Amount, Voucher Funding, and Eligibility

(A) Authority

Authority for the approximately \$103,979,000 in one-year budget authority for housing choice vouchers for low-income families is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2002 (Pub. L. 107-73, approved November 26, 2001), referred to as the FY 2002 HUD Appropriations Act. The allocation of housing assistance budget authority for housing choice vouchers, by allocation area based on fair share factors, is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

(B) Purpose

The purpose of the housing choice voucher funding being made available under this NOFA is to provide housing assistance to very low-income families to enable them to access decent, safe, and affordable housing of their choice on the private market.

(C) Fair Share Allocation Amount

This NOFA announces the availability of approximately \$103,979,000 in one-year budget authority for a fair share formula allocation that will provide housing assistance to approximately 18,000 very low-income families. From this funding, \$8,881,265 for 1,540 vouchers for 13 PHAs will first be used to correct a HUD error resulting in the funding selection omission of these 13 PHAs under the FY 2001 Fair Share NOFA. (See section II(C)(3), Unfunded Corrections.)

(1) *Fair Share Allocation For Each Allocation Area.* Appendix A of this NOFA lists the allocation of housing assistance budget authority for vouchers for each allocation area, based on fair share factors. Appendix A also provides an estimate of the total number of vouchers that could be funded from the housing assistance available for each allocation area based on the weighted local average costs of voucher assistance for a two-bedroom unit. The actual number of units assisted within each allocation area will vary from the estimates prepared by Headquarters since the actual costs of voucher assistance for each PHA vary from the average.

(2) *Potential additional funding.* If additional voucher funding becomes available for fair share use during FY 2002, HUD plans to distribute any

additional funding to allocation areas using the same percentage distribution as reflected in Appendix A to this NOFA. Any additional funding will be used under the competitive requirements of this NOFA to fund PHA applications which were approvable but not funded, or approved and funded at less than 100 percent of the requested amount for which the PHA was eligible under this NOFA.

(3) *Unfunded Corrections.* Prior to the issuance of this NOFA, HUD determined that 13 PHA applicants under the FY 2001 Fair Share NOFA were not funded due to an error on the part of HUD. Funding in the amount of \$8,881,265 will be subtracted from the Fair Share funding available under this NOFA to fund these 13 PHAs as follows: County of Merced, California Housing Authority—\$2,385,412 for 532 vouchers; Sonoma County, California Housing Authority—\$1,847,490 for 260 vouchers; Fort Collins, Colorado Housing Authority—\$524,170 for 65 vouchers; Plant City, Florida Housing Authority—\$71,195 for 15 vouchers; City of Stuart, Florida Housing Authority—\$71,156 for 15 vouchers; County of DeKalb, Georgia Housing Authority—\$1,303,604 for 197 vouchers; Scott, Minnesota Housing Authority—\$285,765 for 48 vouchers; Camden, New Jersey Housing Authority—\$1,377,456 for 200 vouchers; Village of Kiryas Joel, New York Housing Authority—\$415,614 for 50 vouchers; Fargo, North Dakota Housing and Redevelopment Agency—\$165,079 for 44 vouchers; Beaver City, Utah Housing Authority—\$27,836 for 4 vouchers; Vermont State Housing Authority—\$194,492 for 45 vouchers; and Winnebago County, Wisconsin Housing Authority—\$211,996 for 65 vouchers.

(D) Voucher Funding

(1) *Determination of Funding Amount for the PHA's Requested Number of Vouchers.* HUD will determine the amount of funding that a PHA will be awarded under this NOFA based upon an actual annual per unit cost, as provided by the Office of Public and Indian Housing's Section 8 Finance Division {except for Moving to Work (MTW) agencies the per unit cost will be calculated in accordance with the agency's MTW Agreement, using the following two step process (as may be modified based upon a percentage of annual per unit cost if necessary to produce the approximately 18,000 vouchers provided for under this NOFA):

(a) HUD will extract the total expenditures for all the PHA's housing

choice voucher and certificate programs and the unit months leased information from the most recent approved year end statement (form HUD-52681) that the PHA has filed with HUD. HUD will divide the total expenditures for all of the PHA's housing choice voucher and certificate programs by the unit months leased to derive an average monthly per unit cost.

(b) HUD will multiply the monthly per unit cost by 12 (months) to obtain an annual per unit cost.

(E) Eligible Applicants

Any PHA currently administering the Housing Choice Voucher Program under an annual contributions contract (ACC) with HUD for at least one full year prior to the application deadline date shall be eligible to apply for funding under this NOFA. Any such PHA; however, falling into one or more of the categories in section VII(B)(2) of this NOFA, is ineligible to have an application funded under this NOFA.

A PHA may submit only one application under this NOFA. This one application per PHA limit applies regardless of whether or not the PHA is a State or regional PHA, except in those instances where such a PHA has more than one PHA code number due to its operating under the jurisdiction of more than one HUD Field Office. In such an instance, a separate application under each code shall be considered for funding, with the cumulative total of vouchers applied for under the applications not to exceed the maximum number of vouchers the PHA is eligible to apply for under section V(A) of this NOFA; *i.e.*, no more than the number of vouchers the same PHA would be eligible to apply for if it only had one PHA code number.

A contract administrator which does not have an annual contributions contract (ACC) with HUD for housing choice vouchers, but which constitutes a PHA under 24 CFR 791.102 by reason of its administering housing choice tenant-based assistance on behalf of another PHA on October 21, 1998, shall not be eligible to submit an application under this NOFA.

Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

In some cases a PHA currently administering the housing choice voucher program has, at the time of

publication of this NOFA, been designated by HUD as a troubled PHA under the Section 8 Management Assessment Program (SEMAP), or has major program management findings from Inspector General audits that are unresolved. HUD will not accept an application from such a PHA as a contract administrator if, on the application due date, the troubled PHA designation has not been removed by HUD, or the findings are not resolved. If the PHA wants to apply for funding under this NOFA, the PHA must submit an application that designates another contractor that is acceptable to HUD. The PHA's application must include an agreement by the other contractor to administer the new funding increment on behalf of the PHA, and (in the instance of a PHA with unresolved major program management findings) a statement that outlines the steps the PHA is taking to resolve the program findings.

Immediately after the publication of this NOFA, the local HUD Field Office will notify, in writing, those PHAs that have been designated by HUD as troubled under SEMAP, and those PHAs with unresolved major program management findings that are not eligible to apply without such an agreement. Concurrently, the local HUD Field Office will provide a copy of each such written notification to the Director of the GMC. The PHA may appeal the decision, in writing, if HUD has mistakenly classified the PHA as having unresolved major program management findings. The PHA may not appeal its designation as a troubled PHA under SEMAP. Any appeal with respect to unresolved major program management findings must be accompanied by conclusive evidence of HUD's error (i.e., documentation showing that the finding has been cleared) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of the PHA's written appeal and the Field Office's written response to the appeal. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(F) Eligible Participants

Information on those families and individuals eligible to receive a voucher is located at the following HUD Web

site: www.hud.gov/offices/pih/programs/hcv.

III. General Program Requirements

(A) General Program Requirements

(1) *Compliance With Fair Housing and Civil Rights Laws.* All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) Has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) *Additional Nondiscrimination Requirements* In addition to compliance with the civil rights requirements listed at 24 CFR 5.105(a), each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), Title IX of the Education Amendments Act of 1972, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) *Affirmatively Furthering Fair Housing.* Each successful applicant will have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to:

(a) Examine the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice—in its Consolidated Plan); in a reasonable fashion in view of the resources available, and the work to be done in connection with the local jurisdiction's initiatives to affirmatively

further fair housing that requires the PHA's involvement, as well as maintaining records reflecting these analyses and actions; develop a plan to (i) address those impediments in a reasonable fashion in view of the resources available; (ii) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and (iii) maintain records reflecting this analysis and actions.

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice.

Further, applicants have a duty to carry out the specific activities cited in their responses under this NOFA to address affirmatively furthering fair housing.

(4) *Certifications and Assurances.* Each applicant is required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD-52515, Funding Application, which includes the Equal Opportunity Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(5) *Increasing the Participation of Faith-Based and Community-Based Organizations in HUD Program Implementation.* HUD believes that grassroots organizations; e.g., civic organizations, congregations and other community-based and faith-based organizations, have not been effectively utilized. These grassroots organizations have a strong history of providing vital community services such as assisting the homeless and preventing homelessness; counseling individuals and families on fair housing rights; providing elderly housing opportunities; developing first time homeownership programs; increasing homeownership and rental housing opportunities; developing affordable and accessible housing in neighborhoods across the country; and creating economic development programs. The goal of this policy priority is to make HUD's housing choice voucher program more effective, efficient, and accessible by expanding opportunities for faith-based and community-based organizations to participate in developing solutions for their own neighborhoods. PHAs are encouraged to coordinate with and otherwise involve faith-based and other community-based organizations in those activities under the housing choice voucher program where their services, expertise and knowledge may be most effective.

(6) *Conducting Business In Accordance With Core Values and Ethical Standards.* To reflect core values, all applicants shall develop and maintain a written code of conduct in the PHA administrative plan that (1) requires compliance with the conflict of interest requirements of the Housing Choice Voucher Program at 24 CFR 982.161, and (2) prohibits the solicitation or acceptance of gifts or gratuities, in excess of a nominal value, by any officer or employee of the PHA, or any contractor, subcontractor or agent of the PHA. The PHA's administrative plan shall state PHA policies concerning PHA administrative and disciplinary remedies for violation of the PHA code of conduct. The PHA should inform all officers, employees and agents of its organization of the PHA's code of conduct.

(B) PHA Responsibilities and Housing Assistance Requirements

(1) *Housing Choice Voucher Regulations.* PHAs must administer the housing choice vouchers received under this NOFA in accordance with HUD regulations at 24 CFR part 982 governing the Housing Choice Voucher Program.

(2) *Housing Choice Voucher Program Admission Requirements.* Housing choice voucher assistance must be provided to eligible applicants in conformity with regulations and requirements governing the Housing Choice Voucher Program and the PHA's administrative plan.

(3) *Turnover.* When a voucher under this NOFA becomes available for reissue (e.g., the family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the voucher may be used only for the next eligible family on the PHA's housing choice voucher waiting list.

(4) *Vouchers for Disabled Families.* In those instances where the PHA indicated in its application (in connection with Selection Criterion 4 and/or Selection Criterion 5 of this NOFA) that it would use a specified percentage of its vouchers awarded under the NOFA solely for disabled families, that specified percentage of vouchers must be used for disabled families for not less than one year from the date the rental assistance is placed under an annual contributions contract (ACC). If there is an insufficient pool of disabled families on the PHA's housing choice voucher waiting list, the PHA shall conduct outreach to encourage eligible disabled families to apply. Outreach may include contacting independent living centers, advocacy organizations for persons with disabilities, and medical, mental health,

and social service providers for referrals of persons with disabilities who would benefit from housing choice voucher assistance. If the PHA's housing choice voucher waiting list is closed, and if the PHA has an insufficient number of disabled families on that waiting list to use all the vouchers earmarked for the disabled, the PHA should open the waiting list for applications from disabled families. PHAs must take care to keep track of the number of disabled family vouchers that have been awarded versus the number of such vouchers actually issued to disabled families.

IV. Fair Share Application Rating Process

(A) Selection Criteria

The GMC will use the selection criteria shown below for the rating of applications submitted in response to this NOFA. The maximum score under the selection criteria for fair share funding is 100 points.

(1) Selection Criterion 1: Housing Needs (40 points).

(a) *Description:* This criterion assesses the housing need in the primary market area specified in the PHA's application compared with the housing need for the State. Housing need is defined as the number of very low-income renter households with severe rent burden, based on 1990 Census data. Very low-income is defined as income at or below the housing choice voucher very low-income limits. Severe rent burden is defined as a household paying 50 percent or more of its gross income for rent.

(b) *Needs Data:* For the purpose of this criterion, housing needs are based on a tabulation of 1990 Census data prepared for the Department by the Bureau of the Census.

Note: Use of 1990 census data was necessary, in lieu of the use of 2000 census data, due to the lack of complete 2000 census data.

Data on housing needs are available for all States, all counties (county equivalents), and places with populations of 10,000 or more as of 1990. Housing needs information will be posted at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm, indicating the proportion of each State's housing needs for primary markets.

(c) *Rating and Assessment:* The number of points assigned is based on the percentage of the State's housing need that is within the PHA's primary market area. The primary market area is defined as the jurisdiction (or its closest equivalent in terms of areas for which housing needs data are available) in which the PHA is legally authorized to

operate and where the vouchers will be issued, as described in its application. (See Section VI(C) of this NOFA regarding the description of the primary market area required to be included in each PHA's application.) The GMC will assign one of the following point totals (40 points maximum even in those instances where the percentage of housing need in a PHA's primary market area when multiplied times three points would equal a total in excess of 40 points; i.e., no PHA shall receive more than 40 points for housing needs):

(1) For each percentage point of the State's housing need in the PHA's primary market area (rounded to the nearest percentage point) the PHA will receive three points.

(2) A State or regional (multi-county) PHA will receive points based on the areas it serves where the vouchers will be issued; i.e., the sum of the housing needs for the counties and/or localities comprising its primary market area. For each percentage point of the State's housing need in the State or regional PHA's primary market area (rounded to the nearest percentage point), the PHA will receive three points.

(3) A PHA with a primary market area that is a community with a population of 10,000 or less, or a PHA for which housing needs data are not available, will receive three points.

(2) Selection Criterion 2: Lease-Up and Budget Authority Utilization (15 points).

(a) *Description:* This criterion focuses on a PHA's success in leasing its housing choice vouchers and certificates, and using the budget authority associated with its vouchers and certificates. While a PHA must have either a lease-up or budget authority utilization rate of at least 97 percent under section VII(B)(2)(c) of this NOFA in order to have an acceptable application, Selection Criterion 2 provides for the award of selection points to those PHAs having either a voucher and certificate lease-up rate or a budget authority utilization rate of 99 percent or higher. The lease-up and budget authority utilization percentages for a PHA's combined certificate and voucher program will be calculated by HUD based upon the methodology indicated in Appendix B of this NOFA, and shall cover PHA fiscal years ending September 30, 2000; December 31, 2000; March 31, 2001; and June 30, 2001. Lease-up or budget authority utilization rates of a half or more of one percentage point will be rounded to the next highest percentage point for purposes of qualifying for the points available under

Selection Criterion 2 (for example, 98.5 percent will be rounded up to 99 percent). PHAs that meet either the 97 percent lease-up or budget authority utilization threshold requirement in section VII(B)(2) of this NOFA, or that have a 99 percent or higher lease-up or budget authority utilization rate and qualify for the points available under Selection Criterion 2 will be listed with the Fair Share NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm. A PHA not listed may submit information with its application, following the methodology of Appendix B and using the format of Appendix C which includes a completed example and the blank form format to be filled out and submitted with the PHA's application, for its fiscal year ending September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; or subsequent fiscal year not yet processed by HUD but certified by the PHA.

(b) *Rating and Assessment*: The GMC will assign one of two point values as follows:

* *15 points*: The PHA has a lease-up or budget authority utilization rate for its combined voucher and certificate program of 99 percent.

* *0 points*: The PHA has less than a 99 percent lease-up and budget authority utilization rate for its combined voucher and certificate program.

(3) *Selection Criterion 3: Expanding Housing Opportunities (10 points)*.

(a) *Description*: This criterion is based upon the Section 8 Management Assessment Program (SEMAP) performance indicator of the same title located at 24 CFR 985.3(g). The sole difference being that Selection Criterion 3 shall apply to all PHAs (not only to PHAs with jurisdiction in metropolitan fair market rent (FMR) areas, but also to PHAs with jurisdiction in non-metropolitan FMR areas). This selection criterion addresses whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units, including units outside areas of poverty or minority concentration.

(b) *Rating and Assessment*: The GMC will assign one of two point values as follows:

* *10 points*: The PHA certifies to HUD in its application for funding under this NOFA that it is eligible for

the points under the SEMAP indicator entitled "Expanding housing opportunities" (see 24 CFR 985.3(g)) as of the date it is submitting its application to HUD for funding under this NOFA.

Note: As indicated above, Selection Criterion 3 also includes PHAs with jurisdiction in non-metropolitan FMR areas. Consequently, such PHAs may also qualify for the 10 points available under Selection Criterion 3.

* *0 points*: The PHA does not certify to HUD in its application for funding under this NOFA that it is eligible for the points under the SEMAP indicator entitled "Expanding housing opportunities" (see 24 CFR 985.3(g)).

(4) *Selection Criterion 4: Disabled Families (10 points)*.

(a) *Description*: The GMC will assign 10 points to PHAs that certify in their application to HUD that at least 15 percent or more of the vouchers they are funded for under this NOFA will be used to house disabled families, and that there is a sufficient number of disabled families on the PHA's waiting list or otherwise in the community to utilize all such vouchers designated for the disabled. Disabled families are defined as follows:

(i) *Disabled Family*. Disabled family means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

(ii) *Person with disabilities*. Means a person who:

a. Has a disability, as defined in 42 U.S.C. 423;

b. Is determined, pursuant to HUD regulations, to have a physical, mental or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;

2. Substantially impedes his or her ability to live independently; and

3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

4. Has a developmental disability as defined in 42 U.S.C. 6001.

5. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and

6. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.

(b) *Rating and Assessment*: The GMC will assign one of two point values, as follows:

* *10 points*: The PHA submits a certification with its application certifying that it will use not less than 15 percent of the vouchers it is funded for by HUD under this NOFA to house disabled families, and that there are a sufficient number of disabled families on its waiting list or otherwise in the community to utilize all such vouchers designated for the disabled.

* *0 points*: The PHA fails to submit in its application the certification called for immediately above regarding its use of not less than 15 percent of the vouchers it is funded for by HUD under this NOFA to house disabled families.

(5) *Selection Criterion 5: Medicaid Home and Community Based Services Waivers Under Section 1915(c) of the Social Security Act (5 points)*.

(a) *Description*: This selection criterion is for PHAs interested in the provision of housing choice voucher assistance to families within their primary market area who are disabled and also covered under a waiver of Section 1915(c) of the Social Security Act. Section 1915(c) waivers are approved by the Health Care Financing Administration within the Department of Health and Human Services (HHS) for the agency within each State responsible for the administration of the medicaid program. Contacting the responsible State agency (for example, the Agency for Health Care Administration in the State of Florida) will assist the PHA in determining how many, if any, individuals are covered by a Section 1915(c) waiver in the PHA's primary market area. These waivers allow medicaid-eligible individuals at risk of being placed in hospitals, nursing facilities or intermediate care facilities the alternative of being cared for in their homes and communities. These individuals are thereby assisted in preserving their independence and ties to family and friends at a cost no higher than that of institutional care.

While a Section 1915(c) waiver may cover individuals other than those who are disabled, the focus of Selection Criterion 5 is on disabled families only. The definition of disabled families listed under Selection Criterion 4 will be used by PHAs for purposes of the issuance of vouchers to disabled families in connection with Selection Criterion 5; *i.e.*, only those families that meet the definition of a disabled family in this NOFA are to be considered in connection with a PHA determining how many such disabled families are covered by a Section 1915(c) waiver in their primary market area and whether to try to qualify for the 5 points available under Selection Criterion 5.

Any PHA attempting to qualify for the 5 points available under Selection Criterion 5 must provide a certification in its application to HUD for funding under this NOFA. The certification must indicate that not less than 3 percent of the vouchers it is awarded under this NOFA will be used to house eligible disabled families covered by a waiver under Section 1915(c) of the Social Security Act, and that collaborative efforts already undertaken with the responsible State agency have identified a sufficient number of such families within the PHA's primary market area, and an agreement has been reached with that agency for future referrals of such families.

(b) *Rating and Assessment:* The GMC will assign one of two point values as follows:

*5 points: The PHA provided a certification in its application for funding under this NOFA indicating that it will use not less than 3 percent of the vouchers it is funded for by HUD to house voucher eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act, and that collaborative efforts already undertaken with the responsible State agency have identified a sufficient number of such families within the PHA's primary market area and an agreement has been reached with that agency for future referrals of such families.

*0 points: The PHA does not provide in its application for funding under this NOFA the certification called for immediately above.

(c) *Prohibition Against Double Counting.* The number (percentage) of disabled families that a PHA indicates it will issue vouchers to when qualifying for the 5 points available under Selection Criterion 5 cannot be used to also qualify for the 15 points available under Selection Criterion 4 or conversely.

(6) *Selection Criterion 6: Homeownership Option Under Housing Choice Voucher Program (10 points)*

(a) *Description:* PHAs are encouraged, consistent with 24 CFR 982.625—982.641, to establish a homeownership component or to expand upon an existing component within their housing choice voucher program. Points will be awarded under this NOFA to PHAs that are able to submit specific types of documentation verifying the establishment of a housing choice voucher homeownership program, and homeownership closings.

(b) *Rating and Assessment:* The GMC will assign points under Selection Criterion 6 as follows:

(i) 5 points: The PHA has established a housing choice voucher homeownership program as evidenced by its submission with its application of a copy of the PHA Board resolution approving changes to the PHA's administrative plan for the implementation of the homeownership option under its housing choice voucher program.

(ii) 5 points: The PHA qualifies for the five points under paragraph (i) immediately above and has had one or more closings under its homeownership program, as evidenced by the PHA's submission of documentation with its application supportive of at least one homeownership unit that has completed the closing process. Such documentation may include a copy of a fully executed deed, title, recapture agreement, etc.

Note: The PHA can only qualify for the five points under this paragraph (ii) if it has first qualified for the five points under paragraph (i) immediately above.

(iii) 0 points: The PHA fails to submit the appropriate information in its application documenting the establishment of a housing choice voucher homeownership program, and fails to provide the appropriate information related to the closing of a homeownership unit.

(7) *Selection Criterion 7: Family Self-Sufficiency (FSS) Slots Filled (10 points)*

(a) *Description:* PHAs are encouraged, consistent with 24 CFR 984, to fill the slots required under a mandatory FSS program, and to establish a voluntary FSS program and fill slots under that program where a mandatory FSS program is not required. Points will be awarded under this NOFA to PHAs submitting a certification with their application certifying that they have filled 60 percent or more of the required slots under a mandatory FSS program, or that have filled one or more slots under a voluntary FSS program. Prior to calculating the percentage of mandatory FSS slots filled, HUD will reduce the number of mandatory slots to reflect any HUD-approved exception and/or program graduates.

(b) *Rating and Assessment:* The GMC will assign rating points under Selection Criterion 7 as follows (PHAs may receive a maximum of 10 points under the Mandatory FSS Program category or 10 points under the Voluntary FSS Program category, but shall not receive more than a combined maximum total of 10 points under Selection Criterion 7):

(i) *Mandatory FSS Program* (percentages rounded to the nearest whole percent)

a. 10 points: 80 percent or more of the PHA's FSS slots are filled.

b. 5 points: 60—79 percent of the PHA's FSS slots are filled.

c. 0 points: less than 60 percent of the PHA's FSS slots are filled.

(ii) *Voluntary FSS Program*

a. 10 points: 25 or more of the PHA's FSS slots are filled.

b. 5 points: 1 to 24 of the PHA's FSS slots are filled.

c. 0 points: none of the PHA's FSS slots are filled.

V. Fair Share Application Selection Process

(A) Maximum and Minimum Funding Allowed

The GMC may recommend for approval the maximum funding for a PHA under this NOFA that does not exceed the lesser of 25 percent of the PHA vouchers [including Moving to Work (MTW) units] reserved; *i.e.*, the number of units in its adjusted baseline (see 24 CFR 982.102(d)(ii)), as of the due date for applications under this NOFA, or 25 percent of the number of vouchers available in the allocation area (see Appendix A). If, however, all the funds for an allocation area cannot be obligated under the 25 percent/25 percent policy described above, PHAs within the allocation area may be funded in order of highest to lowest score for up to 25 percent of their reserved vouchers. (See section VI(B) of this NOFA regarding the PHA statement required in this regard.) In addition to these requirements regarding the maximum number of vouchers a PHA may request funding for under this NOFA, a limitation on the minimum number of vouchers a PHA may apply for shall also apply; *i.e.*, no PHA shall apply for or be funded for less than 24 vouchers. PHAs who do not have the need for, or who would have difficulty with the lease-up of this minimum number of vouchers should not submit an application under this NOFA.

(B) Funding Procedure

HUD seeks to maximize, insofar as practical, the number of PHAs awarded funding under this NOFA. The GMC will recommend applications for approval in rank order (highest to lowest score) within each allocation area. No PHA shall be eligible to request or be funded at more than the maximum funding indicated under section V (A) above of this NOFA. The number of vouchers for which a PHA will first receive consideration by the GMC for funding will be based upon initially using the lesser of 5 percent of a PHA's reserved units (any result less than 24

units will be rounded up to the minimum of 24 units), or 25 percent of the vouchers available for the allocation area. If funding remains available within the allocation area, the percentage used for the PHAs' reserved units will increase to the percent, not to exceed 25 percent, required to use as much of the funding as possible within the allocation area.

Where the GMC finds it has some number of vouchers left but not enough to fully fund the next ranked application or applications receiving the same score, funding will be recommended by the GMC for the application indicating it will accept the lesser number of vouchers (see Section VI(B) of this NOFA). In the event there are two or more PHAs ranked at the same position (same number of rating points) indicating they will accept the lesser number of vouchers, the PHA whose application is eligible for the largest number of vouchers among these PHAs will be recommended by the GMC for funding.

(C) Reallocations Between Allocation Areas

The GMC will make every reasonable effort to use all funds allocated to an allocation area within that area. It may be necessary, however, to reallocate funds from one allocation area to another when the funds cannot be used in the area to which they were initially allocated. (See 24 CFR 791.405(d)). In such cases, the GMC will re-allocate funds to the allocation area having the largest number of approvable vouchers remaining unfunded due to lack of sufficient fair share funding.

(D) Applications Recommended by the GMC for Funding

After the GMC has screened PHA applications and disapproved any applications found unacceptable for further processing, the GMC will review all acceptable applications to ensure they are technically adequate and responsive to the requirements of the NOFA. As PHAs are selected, the cost of funding the applications will be subtracted from the funds available. Applications will be funded for the total number of units recommended for approval by the GMC in accordance with this NOFA.

VI. Fair Share Application Submission Requirements

(A) Form HUD-52515

All PHAs must complete and submit form HUD-52515, Funding Application, for housing choice vouchers, (dated January 1996). Section C of the form

should be left blank. PHAs are requested to enter their housing authority code number, as well as their electronic mail address, telephone number, and facsimile telephone number in the same space at the top of the form where they are also to enter the PHA's name and mailing address. This form includes all the necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities.

Appendix A to this NOFA lists the estimate of the number of vouchers and budget authority available for each allocation area. PHAs must limit their applications for the "fair share" program to a reasonable number of vouchers based on the capacity of the PHA to lease-up within 12 months of ACC execution. The number of vouchers on the PHA application may not exceed that allowed under section V(A) of this NOFA. The form must be completed in its entirety, with the exception of section C, signed and dated. Copies of form HUD-52515 may be obtained from the local HUD Field Office or may be downloaded from the following HUD Web site: www.hud.gov. On the HUD Web site click on "handbooks and forms," then click on "HUD-5" and click on "HUD-52515." The Form HUD-52515 will also be located with this NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm.

A PHA may submit only one application (form HUD-52515). (See section II(E), Eligible Applicants, of this NOFA which fully addresses this one application per eligible applicant requirement and the one very limited exception allowed under that requirement.)

The GMC will reduce the number of vouchers requested in any application exceeding the maximum number that may be funded under section V(A) of this NOFA.

(B) Letter of Intent and Narrative

The PHA must state in its cover letter to the application whether it will accept a reduction in the number of vouchers, and the minimum number of vouchers (not less than 24) it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of vouchers requested. The PHA must also indicate whether it will accept and can lease within 12 months an allocation of vouchers numbering as many as 25 percent of its reserved vouchers. (See section V(A) of this NOFA).

The application should include a narrative description of how the application meets the application selection criteria in section IV(A) of this

NOFA. This narrative description must include the certifications specifically called for under Selection Criteria 3, 4, 5 and 7 in order for the PHA to receive the points available under each of these criteria. The narrative description should also address how the PHA meets Criterion 2, and the basis for the number of points the PHA claims it is entitled to under Selection Criteria 1 and 6.

Failure to submit the certifications called for under Selection Criteria 3, 4, 5, and 7 will result in the PHA receiving zero points for each Selection Criterion for which the certification is absent. Failure to submit these certifications shall not be considered a curable (correctable) technical deficiency under this NOFA. Failure of the PHA to submit information under Selection Criterion 6 shall also not be considered to be a curable (correctable) technical deficiency under this NOFA.

Failure to submit information addressing the basis upon which the PHA is eligible for the points under Selection Criterion 1, or the points it feels it is eligible for under Selection Criterion 2 shall result in the GMC scoring the PHA solely on the basis of information already on-hand.

(C) Description of Primary Market Area

Each PHA must specify in the application its primary market area; *i.e.*, the area in which it is authorized to operate and in which the housing choice vouchers will be issued. This information may be different than that entered by such a PHA on the form HUD-52515, as the form calls for the PHA to identify its "legal area of operation" which may be far more geographically expansive than the specific city, county, or area within a State where a PHA, particularly a regional or State PHA, intends to issue the fair share vouchers. This information is critical because, as indicated in section IV(A)(1)(c) of this NOFA, the geographic area in which the vouchers are intended to be issued and in which the PHA is legally authorized to operate a Housing Choice Voucher Program will be used to determine the percentage of the state's housing needs that are within the PHA's primary market area under Selection Criterion 1. For example, although a PHA may be legally authorized to operate throughout the entire county in which it is located, if the vouchers will be issued only in two cities within that county then the primary market area is those two cities and not the entire county. Likewise, for a State PHA which may be legally authorized to operate throughout the entire State, but which intends to issue the fair share vouchers in only one

county, the primary market area is solely that county. In addition, the primary market area shall not include a geographic area in which the PHA is issuing vouchers, outside its normal, legally authorized area of operation, based upon an agreement with another PHA(s) to issue vouchers in the other PHA's jurisdiction.

(D) Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing

The areas to be addressed in the PHA's statement should include, but not necessarily be limited to:

(1) An examination of the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice in its Consolidated Plan); and a description of a plan developed to (a) address those impediments in a reasonable fashion in view of the resources available; (b) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and (c) the maintenance of records reflecting this analysis and actions;

(2) Remedy discrimination in housing; or

(3) Promote fair housing rights and fair housing choice.

The PHA's statement must fully address the above areas. A general statement that the PHA will promote fair housing choice by reason of not discriminating on the basis of race, color, religion, etc. will not be sufficient.

(E) Moving to Work (MTW) PHA Certification

See section VII(B)(2)(c) regarding the 97 percent lease-up or budget authority utilization certification to be submitted by an MTW PHA not required to report under SEMAP.

(F) Form HUD-2993

All PHAs must complete and submit form HUD-2993, Acknowledgement of Application Receipt. In addition to the PHA entering its name and address on the form, the full title of the program under which the PHA is seeking funding must also be entered. This form is located in the General Section of the SuperNOFA and is also available at the following HUD Web site: www.hud.gov. On this Web site click on "handbooks and forms."

VII. Corrections to Deficient Applications

(A) Acceptable Applications

An acceptable application is one that meets all of the application submission requirements in Section VI of this NOFA and does not fall into any of the categories listed in Section VII(B) of this NOFA. The GMC will initially screen all applications and notify PHAs of technical deficiencies by letter.

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable (correctable) technical deficiencies include failure to submit the proper certifications (with the exception that failure to submit the certifications called for under Selection Criteria 3, 4, 5, and 7 shall not be considered curable) or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the GMC will notify the applicant in writing or by facsimile (fax) transmission by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the GMC within 7 calendar days of the date of receipt of the HUD notification. Where the HUD notification indicates that the PHA response is to be sent by fax, the PHA must fax its response to (202) 358-0345 and maintain its fax receipt as proof of meeting the 7 calendar day deadline. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(B) Unacceptable Applications

(1) After the 7 calendar day technical deficiency correction period, the GMC will disapprove all PHA applications that it determines are not acceptable for processing. The GMC's notification of rejection letter must state the basis for the decision.

(2) Applications from PHAs that fall into any of the following categories will not be processed:

(a) Applications from PHAs that do not meet the requirements of Section III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA is designated as troubled by HUD under SEMAP, or has major program management findings in an Inspector General audit for its voucher or certificate programs that are unresolved. The only exception to this category is if the PHA has been identified under the policy established in Section II(E) of this NOFA and the PHA makes application with a designated contract administrator. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(c) The PHA has failed to achieve a lease-up or budget authority utilization rate of 97 percent for its combined certificate and voucher units under contract for its fiscal year ending in on either September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001. PHAs that have been determined by HUD to have passed either the 97 percent lease-up, or 97 percent budget authority utilization requirement for their fiscal year ending on September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001, will be listed with the Fair Share NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm. A PHA not listed may submit monthly lease-up and budget authority utilization information (following the methodology of Appendix B and using the format in Appendix C of this NOFA) as part of its application supportive of its contention that it should have been included among those PHAs HUD listed on the HUD web site as having achieved either a 97 percent lease-up rate or 97 percent budget authority utilization rate for fiscal years ending on September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; or subsequent full fiscal year not yet processed by HUD but certified by the PHA. Unless utilization information is submitted using the blank format in Appendix C, the application will otherwise be determined ineligible for funding under this NOFA. (Note: The lease-up and budget authority utilization requirement shall not apply to units associated with funding increments obligated during the last PHA fiscal year and units obligated for litigation. In addition, lease-up or budget authority utilization rates of 96.5

percent but less than 97 percent will be rounded up to 97 percent.)

Moving To Work (MTW) agencies that are required to report under the Section 8 Management Assessment Program (SEMAP) shall be held to the 97 percent lease-up and budget authority utilization requirements referenced above. MTW agencies which are not required to report under SEMAP must submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 97 percent lease-up or budget authority utilization requirements.

(d) The PHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to administer the vouchers.

(e) A PHA's application that does not comply with the requirements of 24 CFR 982.102 and this NOFA after the expiration of the 7 calendar day technical deficiency correction period will be rejected from processing.

(f) The PHA's application was submitted after the application due date.

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled "Address for Submitting Applications" at the beginning of this NOFA.

(h) The PHA has been debarred or otherwise disqualified from providing assistance under the program.

(i) The PHA did not have its PHA plans approved by HUD for the FY 2000 plan cycle on the application due date for this NOFA.

VIII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Housing Choice Voucher Program information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Environmental Impact

In accordance with 24 CFR 50.19(b)(11) and 58.35(b)(1) of the HUD regulations, tenant-based rental activities under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (NEPA) and are not subject to environmental review under the related laws and authorities. Activities under

the homeownership option of this program are categorically excluded from NEPA requirements and excluded from most other environmental requirements in accordance with 24 CFR 58.35(b)(5), but PHAs are responsible for the environmental requirements in 24 CFR 982.626(c). This NOFA provides funding for both these activities under 24 CFR part 982, and does not alter the environmental requirements in that part. Accordingly, under 24 CFR 50.19(c)(5), issuance of this NOFA is also categorically excluded from environmental review under NEPA.

(C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.871.

(D) Federalism Impact

Executive Order 13132 (captioned "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. None of the provisions in this NOFA will have federalism implications and they will not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. As a result, the notice is not subject to review under the Order.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of

support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available for public inspection all applications and related documentation, including letters of support, for 5 years following the award or allocation. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(3) *Applicant Debriefing.* Beginning not less than 30 days after the awards for assistance are announced in the above mentioned **Federal Register** notice, and for not longer than 120 days after awards for assistance are announced, HUD will provide a debriefing to any applicant requesting a debriefing on their application. All requests for debriefings must be made in writing and submitted to the Grants Management Center at the address indicated in Section I of this NOFA, under the paragraph titled "Address for Submitting Applications." Materials provided to you during your debriefing will include the final scores you received for each of the selection criteria, final evaluator comments for each of the selection criteria, and the final assessment indicating the basis upon which assistance was provided or denied.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should

confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104-65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104-65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: February 14, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

APPENDIX A

SECTION 8 INCREMENTAL VOUCHERS— FY 2002 FAIR SHARE ALLOCATIONS

Allocation area	Dollars	Units
Alabama	832,781	222

SECTION 8 INCREMENTAL VOUCHERS— FY 2002 FAIR SHARE ALLOCA- TIONS—Continued

Allocation area	Dollars	Units
Alaska & Washington	2,222,989	382
Arizona	1,390,642	247
Arkansas	502,566	135
California	18,874,594	2,517
Colorado	1,467,914	232
Connecticut	1,297,804	202
Delaware	192,562	34
District of Columbia & Maryland	2,047,095	354
Florida	4,160,328	759
Georgia	2,166,426	404
Hawaii & Pacific Is-lands	648,297	92
Idaho	233,272	59
Illinois	5,027,075	819
Indiana	1,360,001	305
Iowa	723,213	181
Kansas	552,154	141
Kentucky	856,898	229
Louisiana	1,207,967	289
Maine	371,200	76
Massachusetts	3,936,760	508
Michigan	3,132,546	595
Minnesota	1,373,359	236
Mississippi	543,302	152
Missouri	1,358,168	302
Montana	259,819	55
Nebraska	417,236	101
Nevada	643,161	106
New Hampshire	334,649	55
New Jersey	3,751,948	501
New Mexico	384,684	87
New York	16,083,712	2,237
North Carolina	1,777,975	381
North Dakota	157,492	40
Ohio	3,506,237	744
Oklahoma	709,171	179
Oregon	1,183,315	225
Pennsylvania	4,188,667	804
Puerto Rico & Virgin Islands	816,843	228
Rhode Island	453,347	82
South Carolina	769,394	185
South Dakota	205,513	49
Tennessee	1,174,639	279
Texas	5,786,829	1,128
Vermont	224,622	40
Utah	484,393	91
Virginia	1,603,074	334
West Virginia	387,725	110
Wisconsin	1,738,387	374
Wyoming	96,684	24
US Total	103,619,429	17,911

Note: The "U.S. Total" above for voucher funding/vouchers is the result of a reduction, from the \$103,979,000 (approximately 18,000 vouchers) announced as available at the beginning of this NOFA, to \$103,619,429 (approximately 17,911 vouchers) in order to fund two PHAs; i.e., the Fargo, North Dakota Housing Authority for \$165,079 for 44 vouchers, and the Vermont State Housing Authority for \$194,492 for 45 vouchers. These two PHAs were among 13 PHAs not funded by HUD under the FY 2001 Fair Share NOFA due to HUD error. Because the vouchers allocated to North Dakota and

Vermont (see the allocation table above) are so limited for FY 2002, the funding (\$359,571) needed to correct the FY 2001 HUD error affecting these two PHAs was subtracted from the \$103,979,000 prior to allocating the balance of the funding (\$103,619,429) to all allocation areas. This preserved the limited allocation of vouchers for the States of North Dakota and Vermont for FY 2002. The funding needed to fund the vouchers for the balance of 11 PHAs (those PHAs also not funded under the FY 2001 Fair Share NOFA due to HUD error, see section II(C)(3) of this NOFA) will be subtracted by the GMC from the dollars for the allocation areas above where these 11 PHAs are located. This will be done by the GMC prior to preparing its funding recommendations for FY 2002 applications. Subtracting the funding from these allocation areas at that point will preserve the full allocation of vouchers for each of these allocation areas at the outset so as to provide PHAs in those allocation areas with the fullest opportunity to qualify to be funded for 25 percent of the vouchers available within each of these allocation areas, as appropriate. The result of these cumulative deductions for these 13 PHAs (\$8,881,265 for 1,540 vouchers) shall leave \$95,097,735 for approximately 16,460 vouchers, as indicated at the beginning of this NOFA, available for PHAs to submit applications under this FY 2002 Fair Share NOFA.

APPENDIX B

Methodology for Determining Lease-Up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 97% budget authority utilization or 97% lease-up criteria. The data used in the determination was based on PHA fiscal years ending September 30, 2000; December 31, 2000; March 31, 2001; and June 30, 2001. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA year ending September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001 for the PHA's combined certificate and voucher program. Annual budget authority associated with new funding increments obligated during the last PHA fiscal year and annual budget authority for litigation were excluded.

Total contributions required were determined based on the combined actual costs approved by HUD on the form HUD-52681, Year End Settlement Statement. The components that make up the total contributions required are the total of housing assistance payments, ongoing administrative fees earned, hard to house fees earned, and IPA audit costs. From this total any interest earned on administrative fees is subtracted. The net amount is the total contributions required.

ABA is the prorated portion applicable to the PHA year for each funding increment that

had an active contract term during all or a portion of the PHA year. ABA is adjusted for new funding increments obligated during the last PHA fiscal year and for litigation funding increments.
Example:

PHA ABC

[Fiscal year 10/1/99 through 9/30/00]

HUD 52681 Approved Data:

HAP	\$2,150,000
Administrative Fee	215,000
Hard to House Fee	1,000
Audit	2,000
Total	2,368,000
Program Receipts other than Annual Contributions	(2,500)
Total contributions required	2,365,500

CALCULATION OF ANNUAL BUDGET AUTHORITY

Increments	Contract term	Total BA	ABA
001	11/01/99–10/31/00	\$1,300,000	\$1,191,667
002	01/01/00–12/31/00	1,200,000	900,000
003	04/01/00–03/31/01	950,000	475,000
004	07/01/00–06/30/01	1,500,000	375,000
Totals .....	.....	4,950,000	2,941,667
ABA associated with litigation .....	.....	.....	475,000
Total ABA .....	.....	.....	(2,466,667)

BUDGET AUTHORITY UTILIZATION

Total contributions required	\$2,365,500
divided by	
Annual budget authority	2,466,667
equals	
Budget Authority Utilization	95.9%

Lease-up Rate
The lease-up rate was determined by comparing the reserved units (funding increments active as of the end of the PHA year) to the unit months leased (divided by

12) reported on the combined HUD 52681, Year End Settlement Statement(s) for September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001.

Units associated with new funding increments obligated during the last PHA fiscal year and units obligated for litigation were excluded from the reserved units.
Example:

Increments	Contract term	Units
001	11/01/ 99–10/31/00	242
002	01/01/00–12/31/00	224
003	04/01/00–03/31/01	178
004	07/01/00–06/30/01	280
Totals .....	.....	924
Increment 003 litigation .....	.....	(178)
Adjusted contract units .....	.....	746
Unit months leased reported by PHA .....	.....	8,726
divided by 12 .....	.....	727
Units Leased .....	.....	727
Lease-up Rate:		
Units leased .....	.....	727
divided by adjusted contract units equal .....	.....	746
Lease-up Rate .....	.....	97.5%

Example

[ACC units applicable: 653 (Litigation and new units obligated during the fiscal year are excluded)]

Leaseup Rate: 94.78% (UMLs/ACC units).
ABA Utilization 99.14% (Requirements/ABA).
Certification:

Section 8 Program Administrator

ACC Units applicable:

Leaseup Rate: _____% (UMLs/ACC units).
ABA Utilization _____% (Requirements/ABA).

Certification:	
Executive Director	Date
Section 8 Program Administrator	Date

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Federal Register

**Friday,
February 22, 2002**

Part V

Department of Housing and Urban Development

**Notice of Funding Availability (NOFA);
Fair Share Allocation of Incremental
Voucher Funding, Fiscal Year 2002;
Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4726-N-01]

Notice of Funding Availability (NOFA); Fair Share Allocation of Incremental Voucher Funding, Fiscal Year 2002

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability.

SUMMARY: *Purpose of the NOFA.* The purpose of this NOFA is to invite public housing agencies (PHAs) to apply for vouchers on a fair share allocation basis under the Housing Choice Voucher Program. The vouchers are for issuance to families on a PHA's housing choice voucher waiting list to enable these families to access decent, safe, and affordable housing of their choice on the private rental market.

Available Funds. Approximately \$103,979,000 in one-year budget authority for approximately 18,000 housing choice vouchers. Prior to the funding of any new applications under this NOFA for FY 2002, \$8,881,265 of this budget authority will be used to fund 1,540 vouchers for 13 PHAs that were erroneously omitted from the selection process under the FY 2001 Fair Share NOFA. See section II(C)(3) of this NOFA regarding the specific PHAs, dollar amounts and corresponding number of vouchers that each of the 13 PHAs will receive. This will leave \$95,097,735 in one-year budget authority available for the funding of approximately 16,460 vouchers for applications submitted in FY 2002 under this NOFA. Also, see the note at the bottom of Appendix A of this NOFA which fully addresses deductions from funding for allocation areas in order to fund these 13 previously unfunded PHAs.

Eligible Applicants. Public housing agencies (PHAs). PHAs that fall into any of the categories in section VII(B)(2) of this NOFA are ineligible to have an application funded under this NOFA. Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible applicants. The Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Due Date. March 25, 2002.

Match. None.

Additional Information

If you are interested in applying for funding under this NOFA, please read the balance of this NOFA which will provide you with detailed information regarding the submission of an application, Housing Choice Voucher Program requirements, the application selection process to be used by HUD in selecting applications for funding, and other valuable information relative to a PHA's application submission and participation in the program covered by this NOFA.

I. Application Due Date, Application Kits, Further Information, and Technical Assistance

Application Due Date. Your completed application (an original and one copy) is due on or before March 25, 2002, at the address shown below. This application deadline is firm. In the interest of fairness to all competing PHAs, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Address for Submitting Applications. Submit your original application and one copy to Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW., Suite 800, Washington, DC 20024.

The Grants Management Center (GMC) is the official place of receipt for all applications in response to this NOFA. Applications not submitted to the GMC will not be considered. A copy of the application is not required to be submitted to the local HUD Field Office. For ease of reference, the term "local HUD Field Office" will be used in this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

New Security Procedures. In response to the terrorist attacks in September 2001, HUD has implemented new security procedures that impact on application submission procedures. Please read the following instructions carefully and completely. HUD will not accept hand delivered applications. Applications may be mailed using the United States Postal Service (USPS) or may be shipped via the following delivery services: United Parcel Service (UPS), FedEx, DHL, or Falcon Carrier.

No other delivery services are permitted into HUD Headquarters without escort. You must, therefore, use one of the four carriers listed above.

Mailed Applications. Your application will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received by the GMC within fifteen (15) days of the application due date. *All applicants must obtain and save a Certificate of Mailing* showing the date when you submitted your application to the USPS. The Certificate of Mailing will be your documentary evidence that your application was timely filed.

Applications Sent By Overnight/Express Mail Delivery. If your application is sent by overnight delivery or express mail, your application will be timely filed if it is received by the GMC before or on the application due date, or when you submit documentary evidence that your application was placed in transit with the overnight delivery/express mail service by no later than the application due date. Due to new security measures, you must use one of four carrier services that do business with HUD Headquarters regularly. These services are UPS, DHL, FedEx, and Falcon Carrier. Delivery by these services must be made during HUD's Headquarters business hours, between 8:30 AM and 5:30 PM, Eastern Time, Monday to Friday. If these companies do not service your area, you should submit your application via the SUPS.

Application Kit Not Required. An application kit is not available and is not necessary for submitting an application for funding under this NOFA. This NOFA contains all of the information necessary for the submission of an application for voucher funding in connection with this NOFA.

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Room 4216, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1872, ext. 4064. Subsequent to application submission, you may contact the Grants Management Center at (202) 358-0221. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

II. Authority, Purpose, Fair Share Allocation Amount, Voucher Funding, and Eligibility

(A) Authority

Authority for the approximately \$103,979,000 in one-year budget authority for housing choice vouchers for low-income families is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2002 (Pub. L. 107-73, approved November 26, 2001), referred to as the FY 2002 HUD Appropriations Act. The allocation of housing assistance budget authority for housing choice vouchers, by allocation area based on fair share factors, is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

(B) Purpose

The purpose of the housing choice voucher funding being made available under this NOFA is to provide housing assistance to very low-income families to enable them to access decent, safe, and affordable housing of their choice on the private market.

(C) Fair Share Allocation Amount

This NOFA announces the availability of approximately \$103,979,000 in one-year budget authority for a fair share formula allocation that will provide housing assistance to approximately 18,000 very low-income families. From this funding, \$8,881,265 for 1,540 vouchers for 13 PHAs will first be used to correct a HUD error resulting in the funding selection omission of these 13 PHAs under the FY 2001 Fair Share NOFA. (See section II(C)(3), Unfunded Corrections.)

(1) *Fair Share Allocation For Each Allocation Area.* Appendix A of this NOFA lists the allocation of housing assistance budget authority for vouchers for each allocation area, based on fair share factors. Appendix A also provides an estimate of the total number of vouchers that could be funded from the housing assistance available for each allocation area based on the weighted local average costs of voucher assistance for a two-bedroom unit. The actual number of units assisted within each allocation area will vary from the estimates prepared by Headquarters since the actual costs of voucher assistance for each PHA vary from the average.

(2) *Potential additional funding.* If additional voucher funding becomes available for fair share use during FY 2002, HUD plans to distribute any

additional funding to allocation areas using the same percentage distribution as reflected in Appendix A to this NOFA. Any additional funding will be used under the competitive requirements of this NOFA to fund PHA applications which were approvable but not funded, or approved and funded at less than 100 percent of the requested amount for which the PHA was eligible under this NOFA.

(3) *Unfunded Corrections.* Prior to the issuance of this NOFA, HUD determined that 13 PHA applicants under the FY 2001 Fair Share NOFA were not funded due to an error on the part of HUD. Funding in the amount of \$8,881,265 will be subtracted from the Fair Share funding available under this NOFA to fund these 13 PHAs as follows: County of Merced, California Housing Authority—\$2,385,412 for 532 vouchers; Sonoma County, California Housing Authority—\$1,847,490 for 260 vouchers; Fort Collins, Colorado Housing Authority—\$524,170 for 65 vouchers; Plant City, Florida Housing Authority—\$71,195 for 15 vouchers; City of Stuart, Florida Housing Authority—\$71,156 for 15 vouchers; County of DeKalb, Georgia Housing Authority—\$1,303,604 for 197 vouchers; Scott, Minnesota Housing Authority—\$285,765 for 48 vouchers; Camden, New Jersey Housing Authority—\$1,377,456 for 200 vouchers; Village of Kiryas Joel, New York Housing Authority—\$415,614 for 50 vouchers; Fargo, North Dakota Housing and Redevelopment Agency—\$165,079 for 44 vouchers; Beaver City, Utah Housing Authority—\$27,836 for 4 vouchers; Vermont State Housing Authority—\$194,492 for 45 vouchers; and Winnebago County, Wisconsin Housing Authority—\$211,996 for 65 vouchers.

(D) Voucher Funding

(1) *Determination of Funding Amount for the PHA's Requested Number of Vouchers.* HUD will determine the amount of funding that a PHA will be awarded under this NOFA based upon an actual annual per unit cost, as provided by the Office of Public and Indian Housing's Section 8 Finance Division {except for Moving to Work (MTW) agencies the per unit cost will be calculated in accordance with the agency's MTW Agreement, using the following two step process (as may be modified based upon a percentage of annual per unit cost if necessary to produce the approximately 18,000 vouchers provided for under this NOFA):

(a) HUD will extract the total expenditures for all the PHA's housing

choice voucher and certificate programs and the unit months leased information from the most recent approved year end statement (form HUD-52681) that the PHA has filed with HUD. HUD will divide the total expenditures for all of the PHA's housing choice voucher and certificate programs by the unit months leased to derive an average monthly per unit cost.

(b) HUD will multiply the monthly per unit cost by 12 (months) to obtain an annual per unit cost.

(E) Eligible Applicants

Any PHA currently administering the Housing Choice Voucher Program under an annual contributions contract (ACC) with HUD for at least one full year prior to the application deadline date shall be eligible to apply for funding under this NOFA. Any such PHA; however, falling into one or more of the categories in section VII(B)(2) of this NOFA, is ineligible to have an application funded under this NOFA.

A PHA may submit only one application under this NOFA. This one application per PHA limit applies regardless of whether or not the PHA is a State or regional PHA, except in those instances where such a PHA has more than one PHA code number due to its operating under the jurisdiction of more than one HUD Field Office. In such an instance, a separate application under each code shall be considered for funding, with the cumulative total of vouchers applied for under the applications not to exceed the maximum number of vouchers the PHA is eligible to apply for under section V(A) of this NOFA; *i.e.*, no more than the number of vouchers the same PHA would be eligible to apply for if it only had one PHA code number.

A contract administrator which does not have an annual contributions contract (ACC) with HUD for housing choice vouchers, but which constitutes a PHA under 24 CFR 791.102 by reason of its administering housing choice tenant-based assistance on behalf of another PHA on October 21, 1998, shall not be eligible to submit an application under this NOFA.

Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

In some cases a PHA currently administering the housing choice voucher program has, at the time of

publication of this NOFA, been designated by HUD as a troubled PHA under the Section 8 Management Assessment Program (SEMAP), or has major program management findings from Inspector General audits that are unresolved. HUD will not accept an application from such a PHA as a contract administrator if, on the application due date, the troubled PHA designation has not been removed by HUD, or the findings are not resolved. If the PHA wants to apply for funding under this NOFA, the PHA must submit an application that designates another contractor that is acceptable to HUD. The PHA's application must include an agreement by the other contractor to administer the new funding increment on behalf of the PHA, and (in the instance of a PHA with unresolved major program management findings) a statement that outlines the steps the PHA is taking to resolve the program findings.

Immediately after the publication of this NOFA, the local HUD Field Office will notify, in writing, those PHAs that have been designated by HUD as troubled under SEMAP, and those PHAs with unresolved major program management findings that are not eligible to apply without such an agreement. Concurrently, the local HUD Field Office will provide a copy of each such written notification to the Director of the GMC. The PHA may appeal the decision, in writing, if HUD has mistakenly classified the PHA as having unresolved major program management findings. The PHA may not appeal its designation as a troubled PHA under SEMAP. Any appeal with respect to unresolved major program management findings must be accompanied by conclusive evidence of HUD's error (i.e., documentation showing that the finding has been cleared) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of the PHA's written appeal and the Field Office's written response to the appeal. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(F) Eligible Participants

Information on those families and individuals eligible to receive a voucher is located at the following HUD Web

site: www.hud.gov/offices/pih/programs/hcv.

III. General Program Requirements

(A) General Program Requirements

(1) *Compliance With Fair Housing and Civil Rights Laws.* All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) Has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) *Additional Nondiscrimination Requirements* In addition to compliance with the civil rights requirements listed at 24 CFR 5.105(a), each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), Title IX of the Education Amendments Act of 1972, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) *Affirmatively Furthering Fair Housing.* Each successful applicant will have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to:

(a) Examine the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice—in its Consolidated Plan); in a reasonable fashion in view of the resources available, and the work to be done in connection with the local jurisdiction's initiatives to affirmatively

further fair housing that requires the PHA's involvement, as well as maintaining records reflecting these analyses and actions; develop a plan to (i) address those impediments in a reasonable fashion in view of the resources available; (ii) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and (iii) maintain records reflecting this analysis and actions.

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice.

Further, applicants have a duty to carry out the specific activities cited in their responses under this NOFA to address affirmatively furthering fair housing.

(4) *Certifications and Assurances.* Each applicant is required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD-52515, Funding Application, which includes the Equal Opportunity Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(5) *Increasing the Participation of Faith-Based and Community-Based Organizations in HUD Program Implementation.* HUD believes that grassroots organizations; e.g., civic organizations, congregations and other community-based and faith-based organizations, have not been effectively utilized. These grassroots organizations have a strong history of providing vital community services such as assisting the homeless and preventing homelessness; counseling individuals and families on fair housing rights; providing elderly housing opportunities; developing first time homeownership programs; increasing homeownership and rental housing opportunities; developing affordable and accessible housing in neighborhoods across the country; and creating economic development programs. The goal of this policy priority is to make HUD's housing choice voucher program more effective, efficient, and accessible by expanding opportunities for faith-based and community-based organizations to participate in developing solutions for their own neighborhoods. PHAs are encouraged to coordinate with and otherwise involve faith-based and other community-based organizations in those activities under the housing choice voucher program where their services, expertise and knowledge may be most effective.

(6) *Conducting Business In Accordance With Core Values and Ethical Standards.* To reflect core values, all applicants shall develop and maintain a written code of conduct in the PHA administrative plan that (1) requires compliance with the conflict of interest requirements of the Housing Choice Voucher Program at 24 CFR 982.161, and (2) prohibits the solicitation or acceptance of gifts or gratuities, in excess of a nominal value, by any officer or employee of the PHA, or any contractor, subcontractor or agent of the PHA. The PHA's administrative plan shall state PHA policies concerning PHA administrative and disciplinary remedies for violation of the PHA code of conduct. The PHA should inform all officers, employees and agents of its organization of the PHA's code of conduct.

(B) PHA Responsibilities and Housing Assistance Requirements

(1) *Housing Choice Voucher Regulations.* PHAs must administer the housing choice vouchers received under this NOFA in accordance with HUD regulations at 24 CFR part 982 governing the Housing Choice Voucher Program.

(2) *Housing Choice Voucher Program Admission Requirements.* Housing choice voucher assistance must be provided to eligible applicants in conformity with regulations and requirements governing the Housing Choice Voucher Program and the PHA's administrative plan.

(3) *Turnover.* When a voucher under this NOFA becomes available for reissue (e.g., the family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the voucher may be used only for the next eligible family on the PHA's housing choice voucher waiting list.

(4) *Vouchers for Disabled Families.* In those instances where the PHA indicated in its application (in connection with Selection Criterion 4 and/or Selection Criterion 5 of this NOFA) that it would use a specified percentage of its vouchers awarded under the NOFA solely for disabled families, that specified percentage of vouchers must be used for disabled families for not less than one year from the date the rental assistance is placed under an annual contributions contract (ACC). If there is an insufficient pool of disabled families on the PHA's housing choice voucher waiting list, the PHA shall conduct outreach to encourage eligible disabled families to apply. Outreach may include contacting independent living centers, advocacy organizations for persons with disabilities, and medical, mental health,

and social service providers for referrals of persons with disabilities who would benefit from housing choice voucher assistance. If the PHA's housing choice voucher waiting list is closed, and if the PHA has an insufficient number of disabled families on that waiting list to use all the vouchers earmarked for the disabled, the PHA should open the waiting list for applications from disabled families. PHAs must take care to keep track of the number of disabled family vouchers that have been awarded versus the number of such vouchers actually issued to disabled families.

IV. Fair Share Application Rating Process

(A) Selection Criteria

The GMC will use the selection criteria shown below for the rating of applications submitted in response to this NOFA. The maximum score under the selection criteria for fair share funding is 100 points.

(1) Selection Criterion 1: Housing Needs (40 points).

(a) *Description:* This criterion assesses the housing need in the primary market area specified in the PHA's application compared with the housing need for the State. Housing need is defined as the number of very low-income renter households with severe rent burden, based on 1990 Census data. Very low-income is defined as income at or below the housing choice voucher very low-income limits. Severe rent burden is defined as a household paying 50 percent or more of its gross income for rent.

(b) *Needs Data:* For the purpose of this criterion, housing needs are based on a tabulation of 1990 Census data prepared for the Department by the Bureau of the Census.

Note: Use of 1990 census data was necessary, in lieu of the use of 2000 census data, due to the lack of complete 2000 census data.

Data on housing needs are available for all States, all counties (county equivalents), and places with populations of 10,000 or more as of 1990. Housing needs information will be posted at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm, indicating the proportion of each State's housing needs for primary markets.

(c) *Rating and Assessment:* The number of points assigned is based on the percentage of the State's housing need that is within the PHA's primary market area. The primary market area is defined as the jurisdiction (or its closest equivalent in terms of areas for which housing needs data are available) in which the PHA is legally authorized to

operate and where the vouchers will be issued, as described in its application. (See Section VI(C) of this NOFA regarding the description of the primary market area required to be included in each PHA's application.) The GMC will assign one of the following point totals (40 points maximum even in those instances where the percentage of housing need in a PHA's primary market area when multiplied times three points would equal a total in excess of 40 points; i.e., no PHA shall receive more than 40 points for housing needs):

(1) For each percentage point of the State's housing need in the PHA's primary market area (rounded to the nearest percentage point) the PHA will receive three points.

(2) A State or regional (multi-county) PHA will receive points based on the areas it serves where the vouchers will be issued; i.e., the sum of the housing needs for the counties and/or localities comprising its primary market area. For each percentage point of the State's housing need in the State or regional PHA's primary market area (rounded to the nearest percentage point), the PHA will receive three points.

(3) A PHA with a primary market area that is a community with a population of 10,000 or less, or a PHA for which housing needs data are not available, will receive three points.

(2) Selection Criterion 2: Lease-Up and Budget Authority Utilization (15 points).

(a) *Description:* This criterion focuses on a PHA's success in leasing its housing choice vouchers and certificates, and using the budget authority associated with its vouchers and certificates. While a PHA must have either a lease-up or budget authority utilization rate of at least 97 percent under section VII(B)(2)(c) of this NOFA in order to have an acceptable application, Selection Criterion 2 provides for the award of selection points to those PHAs having either a voucher and certificate lease-up rate or a budget authority utilization rate of 99 percent or higher. The lease-up and budget authority utilization percentages for a PHA's combined certificate and voucher program will be calculated by HUD based upon the methodology indicated in Appendix B of this NOFA, and shall cover PHA fiscal years ending September 30, 2000; December 31, 2000; March 31, 2001; and June 30, 2001. Lease-up or budget authority utilization rates of a half or more of one percentage point will be rounded to the next highest percentage point for purposes of qualifying for the points available under

Selection Criterion 2 (for example, 98.5 percent will be rounded up to 99 percent). PHAs that meet either the 97 percent lease-up or budget authority utilization threshold requirement in section VII(B)(2) of this NOFA, or that have a 99 percent or higher lease-up or budget authority utilization rate and qualify for the points available under Selection Criterion 2 will be listed with the Fair Share NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm. A PHA not listed may submit information with its application, following the methodology of Appendix B and using the format of Appendix C which includes a completed example and the blank form format to be filled out and submitted with the PHA's application, for its fiscal year ending September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; or subsequent fiscal year not yet processed by HUD but certified by the PHA.

(b) *Rating and Assessment*: The GMC will assign one of two point values as follows:

* *15 points*: The PHA has a lease-up or budget authority utilization rate for its combined voucher and certificate program of 99 percent.

* *0 points*: The PHA has less than a 99 percent lease-up and budget authority utilization rate for its combined voucher and certificate program.

(3) *Selection Criterion 3: Expanding Housing Opportunities (10 points)*.

(a) *Description*: This criterion is based upon the Section 8 Management Assessment Program (SEMAP) performance indicator of the same title located at 24 CFR 985.3(g). The sole difference being that Selection Criterion 3 shall apply to all PHAs (not only to PHAs with jurisdiction in metropolitan fair market rent (FMR) areas, but also to PHAs with jurisdiction in non-metropolitan FMR areas). This selection criterion addresses whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units, including units outside areas of poverty or minority concentration.

(b) *Rating and Assessment*: The GMC will assign one of two point values as follows:

* *10 points*: The PHA certifies to HUD in its application for funding under this NOFA that it is eligible for

the points under the SEMAP indicator entitled "Expanding housing opportunities" (see 24 CFR 985.3(g)) as of the date it is submitting its application to HUD for funding under this NOFA.

Note: As indicated above, Selection Criterion 3 also includes PHAs with jurisdiction in non-metropolitan FMR areas. Consequently, such PHAs may also qualify for the 10 points available under Selection Criterion 3.

* *0 points*: The PHA does not certify to HUD in its application for funding under this NOFA that it is eligible for the points under the SEMAP indicator entitled "Expanding housing opportunities" (see 24 CFR 985.3(g)).

(4) *Selection Criterion 4: Disabled Families (10 points)*.

(a) *Description*: The GMC will assign 10 points to PHAs that certify in their application to HUD that at least 15 percent or more of the vouchers they are funded for under this NOFA will be used to house disabled families, and that there is a sufficient number of disabled families on the PHA's waiting list or otherwise in the community to utilize all such vouchers designated for the disabled. Disabled families are defined as follows:

(i) *Disabled Family*. Disabled family means a family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

(ii) *Person with disabilities*. Means a person who:

a. Has a disability, as defined in 42 U.S.C. 423;

b. Is determined, pursuant to HUD regulations, to have a physical, mental or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;

2. Substantially impedes his or her ability to live independently; and

3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

4. Has a developmental disability as defined in 42 U.S.C. 6001.

5. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and

6. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.

(b) *Rating and Assessment*: The GMC will assign one of two point values, as follows:

* *10 points*: The PHA submits a certification with its application certifying that it will use not less than 15 percent of the vouchers it is funded for by HUD under this NOFA to house disabled families, and that there are a sufficient number of disabled families on its waiting list or otherwise in the community to utilize all such vouchers designated for the disabled.

* *0 points*: The PHA fails to submit in its application the certification called for immediately above regarding its use of not less than 15 percent of the vouchers it is funded for by HUD under this NOFA to house disabled families.

(5) *Selection Criterion 5: Medicaid Home and Community Based Services Waivers Under Section 1915(c) of the Social Security Act (5 points)*.

(a) *Description*: This selection criterion is for PHAs interested in the provision of housing choice voucher assistance to families within their primary market area who are disabled and also covered under a waiver of Section 1915(c) of the Social Security Act. Section 1915(c) waivers are approved by the Health Care Financing Administration within the Department of Health and Human Services (HHS) for the agency within each State responsible for the administration of the medicaid program. Contacting the responsible State agency (for example, the Agency for Health Care Administration in the State of Florida) will assist the PHA in determining how many, if any, individuals are covered by a Section 1915(c) waiver in the PHA's primary market area. These waivers allow medicaid-eligible individuals at risk of being placed in hospitals, nursing facilities or intermediate care facilities the alternative of being cared for in their homes and communities. These individuals are thereby assisted in preserving their independence and ties to family and friends at a cost no higher than that of institutional care.

While a Section 1915(c) waiver may cover individuals other than those who are disabled, the focus of Selection Criterion 5 is on disabled families only. The definition of disabled families listed under Selection Criterion 4 will be used by PHAs for purposes of the issuance of vouchers to disabled families in connection with Selection Criterion 5; *i.e.*, only those families that meet the definition of a disabled family in this NOFA are to be considered in connection with a PHA determining how many such disabled families are covered by a Section 1915(c) waiver in their primary market area and whether to try to qualify for the 5 points available under Selection Criterion 5.

Any PHA attempting to qualify for the 5 points available under Selection Criterion 5 must provide a certification in its application to HUD for funding under this NOFA. The certification must indicate that not less than 3 percent of the vouchers it is awarded under this NOFA will be used to house eligible disabled families covered by a waiver under Section 1915(c) of the Social Security Act, and that collaborative efforts already undertaken with the responsible State agency have identified a sufficient number of such families within the PHA's primary market area, and an agreement has been reached with that agency for future referrals of such families.

(b) *Rating and Assessment:* The GMC will assign one of two point values as follows:

*5 points: The PHA provided a certification in its application for funding under this NOFA indicating that it will use not less than 3 percent of the vouchers it is funded for by HUD to house voucher eligible, disabled families covered by a waiver under Section 1915(c) of the Social Security Act, and that collaborative efforts already undertaken with the responsible State agency have identified a sufficient number of such families within the PHA's primary market area and an agreement has been reached with that agency for future referrals of such families.

*0 points: The PHA does not provide in its application for funding under this NOFA the certification called for immediately above.

(c) *Prohibition Against Double Counting.* The number (percentage) of disabled families that a PHA indicates it will issue vouchers to when qualifying for the 5 points available under Selection Criterion 5 cannot be used to also qualify for the 15 points available under Selection Criterion 4 or conversely.

(6) *Selection Criterion 6: Homeownership Option Under Housing Choice Voucher Program (10 points)*

(a) *Description:* PHAs are encouraged, consistent with 24 CFR 982.625—982.641, to establish a homeownership component or to expand upon an existing component within their housing choice voucher program. Points will be awarded under this NOFA to PHAs that are able to submit specific types of documentation verifying the establishment of a housing choice voucher homeownership program, and homeownership closings.

(b) *Rating and Assessment:* The GMC will assign points under Selection Criterion 6 as follows:

(i) 5 points: The PHA has established a housing choice voucher homeownership program as evidenced by its submission with its application of a copy of the PHA Board resolution approving changes to the PHA's administrative plan for the implementation of the homeownership option under its housing choice voucher program.

(ii) 5 points: The PHA qualifies for the five points under paragraph (i) immediately above and has had one or more closings under its homeownership program, as evidenced by the PHA's submission of documentation with its application supportive of at least one homeownership unit that has completed the closing process. Such documentation may include a copy of a fully executed deed, title, recapture agreement, etc.

Note: The PHA can only qualify for the five points under this paragraph (ii) if it has first qualified for the five points under paragraph (i) immediately above.

(iii) 0 points: The PHA fails to submit the appropriate information in its application documenting the establishment of a housing choice voucher homeownership program, and fails to provide the appropriate information related to the closing of a homeownership unit.

(7) *Selection Criterion 7: Family Self-Sufficiency (FSS) Slots Filled (10 points)*

(a) *Description:* PHAs are encouraged, consistent with 24 CFR 984, to fill the slots required under a mandatory FSS program, and to establish a voluntary FSS program and fill slots under that program where a mandatory FSS program is not required. Points will be awarded under this NOFA to PHAs submitting a certification with their application certifying that they have filled 60 percent or more of the required slots under a mandatory FSS program, or that have filled one or more slots under a voluntary FSS program. Prior to calculating the percentage of mandatory FSS slots filled, HUD will reduce the number of mandatory slots to reflect any HUD-approved exception and/or program graduates.

(b) *Rating and Assessment:* The GMC will assign rating points under Selection Criterion 7 as follows (PHAs may receive a maximum of 10 points under the Mandatory FSS Program category or 10 points under the Voluntary FSS Program category, but shall not receive more than a combined maximum total of 10 points under Selection Criterion 7):

(i) *Mandatory FSS Program* (percentages rounded to the nearest whole percent)

a. 10 points: 80 percent or more of the PHA's FSS slots are filled.

b. 5 points: 60—79 percent of the PHA's FSS slots are filled.

c. 0 points: less than 60 percent of the PHA's FSS slots are filled.

(ii) *Voluntary FSS Program*

a. 10 points: 25 or more of the PHA's FSS slots are filled.

b. 5 points: 1 to 24 of the PHA's FSS slots are filled.

c. 0 points: none of the PHA's FSS slots are filled.

V. Fair Share Application Selection Process

(A) Maximum and Minimum Funding Allowed

The GMC may recommend for approval the maximum funding for a PHA under this NOFA that does not exceed the lesser of 25 percent of the PHA vouchers [including Moving to Work (MTW) units] reserved; *i.e.*, the number of units in its adjusted baseline (see 24 CFR 982.102(d)(ii)), as of the due date for applications under this NOFA, or 25 percent of the number of vouchers available in the allocation area (see Appendix A). If, however, all the funds for an allocation area cannot be obligated under the 25 percent/25 percent policy described above, PHAs within the allocation area may be funded in order of highest to lowest score for up to 25 percent of their reserved vouchers. (See section VI(B) of this NOFA regarding the PHA statement required in this regard.) In addition to these requirements regarding the maximum number of vouchers a PHA may request funding for under this NOFA, a limitation on the minimum number of vouchers a PHA may apply for shall also apply; *i.e.*, no PHA shall apply for or be funded for less than 24 vouchers. PHAs who do not have the need for, or who would have difficulty with the lease-up of this minimum number of vouchers should not submit an application under this NOFA.

(B) Funding Procedure

HUD seeks to maximize, insofar as practical, the number of PHAs awarded funding under this NOFA. The GMC will recommend applications for approval in rank order (highest to lowest score) within each allocation area. No PHA shall be eligible to request or be funded at more than the maximum funding indicated under section V (A) above of this NOFA. The number of vouchers for which a PHA will first receive consideration by the GMC for funding will be based upon initially using the lesser of 5 percent of a PHA's reserved units (any result less than 24

units will be rounded up to the minimum of 24 units), or 25 percent of the vouchers available for the allocation area. If funding remains available within the allocation area, the percentage used for the PHAs' reserved units will increase to the percent, not to exceed 25 percent, required to use as much of the funding as possible within the allocation area.

Where the GMC finds it has some number of vouchers left but not enough to fully fund the next ranked application or applications receiving the same score, funding will be recommended by the GMC for the application indicating it will accept the lesser number of vouchers (see Section VI(B) of this NOFA). In the event there are two or more PHAs ranked at the same position (same number of rating points) indicating they will accept the lesser number of vouchers, the PHA whose application is eligible for the largest number of vouchers among these PHAs will be recommended by the GMC for funding.

(C) Reallocations Between Allocation Areas

The GMC will make every reasonable effort to use all funds allocated to an allocation area within that area. It may be necessary, however, to reallocate funds from one allocation area to another when the funds cannot be used in the area to which they were initially allocated. (See 24 CFR 791.405(d)). In such cases, the GMC will re-allocate funds to the allocation area having the largest number of approvable vouchers remaining unfunded due to lack of sufficient fair share funding.

(D) Applications Recommended by the GMC for Funding

After the GMC has screened PHA applications and disapproved any applications found unacceptable for further processing, the GMC will review all acceptable applications to ensure they are technically adequate and responsive to the requirements of the NOFA. As PHAs are selected, the cost of funding the applications will be subtracted from the funds available. Applications will be funded for the total number of units recommended for approval by the GMC in accordance with this NOFA.

VI. Fair Share Application Submission Requirements

(A) Form HUD-52515

All PHAs must complete and submit form HUD-52515, Funding Application, for housing choice vouchers, (dated January 1996). Section C of the form

should be left blank. PHAs are requested to enter their housing authority code number, as well as their electronic mail address, telephone number, and facsimile telephone number in the same space at the top of the form where they are also to enter the PHA's name and mailing address. This form includes all the necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities.

Appendix A to this NOFA lists the estimate of the number of vouchers and budget authority available for each allocation area. PHAs must limit their applications for the "fair share" program to a reasonable number of vouchers based on the capacity of the PHA to lease-up within 12 months of ACC execution. The number of vouchers on the PHA application may not exceed that allowed under section V(A) of this NOFA. The form must be completed in its entirety, with the exception of section C, signed and dated. Copies of form HUD-52515 may be obtained from the local HUD Field Office or may be downloaded from the following HUD Web site: www.hud.gov. On the HUD Web site click on "handbooks and forms," then click on "HUD-5" and click on "HUD-52515." The Form HUD-52515 will also be located with this NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm.

A PHA may submit only one application (form HUD-52515). (See section II(E), Eligible Applicants, of this NOFA which fully addresses this one application per eligible applicant requirement and the one very limited exception allowed under that requirement.)

The GMC will reduce the number of vouchers requested in any application exceeding the maximum number that may be funded under section V(A) of this NOFA.

(B) Letter of Intent and Narrative

The PHA must state in its cover letter to the application whether it will accept a reduction in the number of vouchers, and the minimum number of vouchers (not less than 24) it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of vouchers requested. The PHA must also indicate whether it will accept and can lease within 12 months an allocation of vouchers numbering as many as 25 percent of its reserved vouchers. (See section V(A) of this NOFA).

The application should include a narrative description of how the application meets the application selection criteria in section IV(A) of this

NOFA. This narrative description must include the certifications specifically called for under Selection Criteria 3, 4, 5 and 7 in order for the PHA to receive the points available under each of these criteria. The narrative description should also address how the PHA meets Criterion 2, and the basis for the number of points the PHA claims it is entitled to under Selection Criteria 1 and 6.

Failure to submit the certifications called for under Selection Criteria 3, 4, 5, and 7 will result in the PHA receiving zero points for each Selection Criterion for which the certification is absent. Failure to submit these certifications shall not be considered a curable (correctable) technical deficiency under this NOFA. Failure of the PHA to submit information under Selection Criterion 6 shall also not be considered to be a curable (correctable) technical deficiency under this NOFA.

Failure to submit information addressing the basis upon which the PHA is eligible for the points under Selection Criterion 1, or the points it feels it is eligible for under Selection Criterion 2 shall result in the GMC scoring the PHA solely on the basis of information already on-hand.

(C) Description of Primary Market Area

Each PHA must specify in the application its primary market area; *i.e.*, the area in which it is authorized to operate and in which the housing choice vouchers will be issued. This information may be different than that entered by such a PHA on the form HUD-52515, as the form calls for the PHA to identify its "legal area of operation" which may be far more geographically expansive than the specific city, county, or area within a State where a PHA, particularly a regional or State PHA, intends to issue the fair share vouchers. This information is critical because, as indicated in section IV(A)(1)(c) of this NOFA, the geographic area in which the vouchers are intended to be issued and in which the PHA is legally authorized to operate a Housing Choice Voucher Program will be used to determine the percentage of the state's housing needs that are within the PHA's primary market area under Selection Criterion 1. For example, although a PHA may be legally authorized to operate throughout the entire county in which it is located, if the vouchers will be issued only in two cities within that county then the primary market area is those two cities and not the entire county. Likewise, for a State PHA which may be legally authorized to operate throughout the entire State, but which intends to issue the fair share vouchers in only one

county, the primary market area is solely that county. In addition, the primary market area shall not include a geographic area in which the PHA is issuing vouchers, outside its normal, legally authorized area of operation, based upon an agreement with another PHA(s) to issue vouchers in the other PHA's jurisdiction.

(D) Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing

The areas to be addressed in the PHA's statement should include, but not necessarily be limited to:

(1) An examination of the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice in its Consolidated Plan); and a description of a plan developed to (a) address those impediments in a reasonable fashion in view of the resources available; (b) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and (c) the maintenance of records reflecting this analysis and actions;

(2) Remedy discrimination in housing; or

(3) Promote fair housing rights and fair housing choice.

The PHA's statement must fully address the above areas. A general statement that the PHA will promote fair housing choice by reason of not discriminating on the basis of race, color, religion, etc. will not be sufficient.

(E) Moving to Work (MTW) PHA Certification

See section VII(B)(2)(c) regarding the 97 percent lease-up or budget authority utilization certification to be submitted by an MTW PHA not required to report under SEMAP.

(F) Form HUD-2993

All PHAs must complete and submit form HUD-2993, Acknowledgement of Application Receipt. In addition to the PHA entering its name and address on the form, the full title of the program under which the PHA is seeking funding must also be entered. This form is located in the General Section of the SuperNOFA and is also available at the following HUD Web site: www.hud.gov. On this Web site click on "handbooks and forms."

VII. Corrections to Deficient Applications

(A) Acceptable Applications

An acceptable application is one that meets all of the application submission requirements in Section VI of this NOFA and does not fall into any of the categories listed in Section VII(B) of this NOFA. The GMC will initially screen all applications and notify PHAs of technical deficiencies by letter.

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable (correctable) technical deficiencies include failure to submit the proper certifications (with the exception that failure to submit the certifications called for under Selection Criteria 3, 4, 5, and 7 shall not be considered curable) or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the GMC will notify the applicant in writing or by facsimile (fax) transmission by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the GMC within 7 calendar days of the date of receipt of the HUD notification. Where the HUD notification indicates that the PHA response is to be sent by fax, the PHA must fax its response to (202) 358-0345 and maintain its fax receipt as proof of meeting the 7 calendar day deadline. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(B) Unacceptable Applications

(1) After the 7 calendar day technical deficiency correction period, the GMC will disapprove all PHA applications that it determines are not acceptable for processing. The GMC's notification of rejection letter must state the basis for the decision.

(2) Applications from PHAs that fall into any of the following categories will not be processed:

(a) Applications from PHAs that do not meet the requirements of Section III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA is designated as troubled by HUD under SEMAP, or has major program management findings in an Inspector General audit for its voucher or certificate programs that are unresolved. The only exception to this category is if the PHA has been identified under the policy established in Section II(E) of this NOFA and the PHA makes application with a designated contract administrator. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(c) The PHA has failed to achieve a lease-up or budget authority utilization rate of 97 percent for its combined certificate and voucher units under contract for its fiscal year ending in on either September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001. PHAs that have been determined by HUD to have passed either the 97 percent lease-up, or 97 percent budget authority utilization requirement for their fiscal year ending on September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001, will be listed with the Fair Share NOFA at the following HUD Web site: www.hud.gov/offices/adm/grants/otherhud.cfm. A PHA not listed may submit monthly lease-up and budget authority utilization information (following the methodology of Appendix B and using the format in Appendix C of this NOFA) as part of its application supportive of its contention that it should have been included among those PHAs HUD listed on the HUD web site as having achieved either a 97 percent lease-up rate or 97 percent budget authority utilization rate for fiscal years ending on September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; or subsequent full fiscal year not yet processed by HUD but certified by the PHA. Unless utilization information is submitted using the blank format in Appendix C, the application will otherwise be determined ineligible for funding under this NOFA. (Note: The lease-up and budget authority utilization requirement shall not apply to units associated with funding increments obligated during the last PHA fiscal year and units obligated for litigation. In addition, lease-up or budget authority utilization rates of 96.5

percent but less than 97 percent will be rounded up to 97 percent.)

Moving To Work (MTW) agencies that are required to report under the Section 8 Management Assessment Program (SEMAP) shall be held to the 97 percent lease-up and budget authority utilization requirements referenced above. MTW agencies which are not required to report under SEMAP must submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 97 percent lease-up or budget authority utilization requirements.

(d) The PHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to administer the vouchers.

(e) A PHA's application that does not comply with the requirements of 24 CFR 982.102 and this NOFA after the expiration of the 7 calendar day technical deficiency correction period will be rejected from processing.

(f) The PHA's application was submitted after the application due date.

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled "Address for Submitting Applications" at the beginning of this NOFA.

(h) The PHA has been debarred or otherwise disqualified from providing assistance under the program.

(i) The PHA did not have its PHA plans approved by HUD for the FY 2000 plan cycle on the application due date for this NOFA.

VIII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Housing Choice Voucher Program information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Environmental Impact

In accordance with 24 CFR 50.19(b)(11) and 58.35(b)(1) of the HUD regulations, tenant-based rental activities under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (NEPA) and are not subject to environmental review under the related laws and authorities. Activities under

the homeownership option of this program are categorically excluded from NEPA requirements and excluded from most other environmental requirements in accordance with 24 CFR 58.35(b)(5), but PHAs are responsible for the environmental requirements in 24 CFR 982.626(c). This NOFA provides funding for both these activities under 24 CFR part 982, and does not alter the environmental requirements in that part. Accordingly, under 24 CFR 50.19(c)(5), issuance of this NOFA is also categorically excluded from environmental review under NEPA.

(C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.871.

(D) Federalism Impact

Executive Order 13132 (captioned "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. None of the provisions in this NOFA will have federalism implications and they will not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. As a result, the notice is not subject to review under the Order.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of

support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available for public inspection all applications and related documentation, including letters of support, for 5 years following the award or allocation. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(3) *Applicant Debriefing.* Beginning not less than 30 days after the awards for assistance are announced in the above mentioned **Federal Register** notice, and for not longer than 120 days after awards for assistance are announced, HUD will provide a debriefing to any applicant requesting a debriefing on their application. All requests for debriefings must be made in writing and submitted to the Grants Management Center at the address indicated in Section I of this NOFA, under the paragraph titled "Address for Submitting Applications." Materials provided to you during your debriefing will include the final scores you received for each of the selection criteria, final evaluator comments for each of the selection criteria, and the final assessment indicating the basis upon which assistance was provided or denied.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should

confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104-65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104-65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: February 14, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

APPENDIX A

SECTION 8 INCREMENTAL VOUCHERS— FY 2002 FAIR SHARE ALLOCATIONS

Allocation area	Dollars	Units
Alabama	832,781	222

SECTION 8 INCREMENTAL VOUCHERS— FY 2002 FAIR SHARE ALLOCA- TIONS—Continued

Allocation area	Dollars	Units
Alaska & Washington	2,222,989	382
Arizona	1,390,642	247
Arkansas	502,566	135
California	18,874,594	2,517
Colorado	1,467,914	232
Connecticut	1,297,804	202
Delaware	192,562	34
District of Columbia & Maryland	2,047,095	354
Florida	4,160,328	759
Georgia	2,166,426	404
Hawaii & Pacific Is-lands	648,297	92
Idaho	233,272	59
Illinois	5,027,075	819
Indiana	1,360,001	305
Iowa	723,213	181
Kansas	552,154	141
Kentucky	856,898	229
Louisiana	1,207,967	289
Maine	371,200	76
Massachusetts	3,936,760	508
Michigan	3,132,546	595
Minnesota	1,373,359	236
Mississippi	543,302	152
Missouri	1,358,168	302
Montana	259,819	55
Nebraska	417,236	101
Nevada	643,161	106
New Hampshire	334,649	55
New Jersey	3,751,948	501
New Mexico	384,684	87
New York	16,083,712	2,237
North Carolina	1,777,975	381
North Dakota	157,492	40
Ohio	3,506,237	744
Oklahoma	709,171	179
Oregon	1,183,315	225
Pennsylvania	4,188,667	804
Puerto Rico & Virgin Islands	816,843	228
Rhode Island	453,347	82
South Carolina	769,394	185
South Dakota	205,513	49
Tennessee	1,174,639	279
Texas	5,786,829	1,128
Vermont	224,622	40
Utah	484,393	91
Virginia	1,603,074	334
West Virginia	387,725	110
Wisconsin	1,738,387	374
Wyoming	96,684	24
US Total	103,619,429	17,911

Note: The "U.S. Total" above for voucher funding/vouchers is the result of a reduction, from the \$103,979,000 (approximately 18,000 vouchers) announced as available at the beginning of this NOFA, to \$103,619,429 (approximately 17,911 vouchers) in order to fund two PHAs; i.e., the Fargo, North Dakota Housing Authority for \$165,079 for 44 vouchers, and the Vermont State Housing Authority for \$194,492 for 45 vouchers. These two PHAs were among 13 PHAs not funded by HUD under the FY 2001 Fair Share NOFA due to HUD error. Because the vouchers allocated to North Dakota and

Vermont (see the allocation table above) are so limited for FY 2002, the funding (\$359,571) needed to correct the FY 2001 HUD error affecting these two PHAs was subtracted from the \$103,979,000 prior to allocating the balance of the funding (\$103,619,429) to all allocation areas. This preserved the limited allocation of vouchers for the States of North Dakota and Vermont for FY 2002. The funding needed to fund the vouchers for the balance of 11 PHAs (those PHAs also not funded under the FY 2001 Fair Share NOFA due to HUD error, see section II(C)(3) of this NOFA) will be subtracted by the GMC from the dollars for the allocation areas above where these 11 PHAs are located. This will be done by the GMC prior to preparing its funding recommendations for FY 2002 applications. Subtracting the funding from these allocation areas at that point will preserve the full allocation of vouchers for each of these allocation areas at the outset so as to provide PHAs in those allocation areas with the fullest opportunity to qualify to be funded for 25 percent of the vouchers available within each of these allocation areas, as appropriate. The result of these cumulative deductions for these 13 PHAs (\$8,881,265 for 1,540 vouchers) shall leave \$95,097,735 for approximately 16,460 vouchers, as indicated at the beginning of this NOFA, available for PHAs to submit applications under this FY 2002 Fair Share NOFA.

APPENDIX B

Methodology for Determining Lease-Up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 97% budget authority utilization or 97% lease-up criteria. The data used in the determination was based on PHA fiscal years ending September 30, 2000; December 31, 2000; March 31, 2001; and June 30, 2001. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA year ending September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001 for the PHA's combined certificate and voucher program. Annual budget authority associated with new funding increments obligated during the last PHA fiscal year and annual budget authority for litigation were excluded.

Total contributions required were determined based on the combined actual costs approved by HUD on the form HUD-52681, Year End Settlement Statement. The components that make up the total contributions required are the total of housing assistance payments, ongoing administrative fees earned, hard to house fees earned, and IPA audit costs. From this total any interest earned on administrative fees is subtracted. The net amount is the total contributions required.

ABA is the prorated portion applicable to the PHA year for each funding increment that

had an active contract term during all or a portion of the PHA year. ABA is adjusted for new funding increments obligated during the last PHA fiscal year and for litigation funding increments.
Example:

PHA ABC

[Fiscal year 10/1/99 through 9/30/00]

HUD 52681 Approved Data:

HAP	\$2,150,000
Administrative Fee	215,000
Hard to House Fee	1,000
Audit	2,000
Total	2,368,000
Program Receipts other than Annual Contributions	(2,500)
Total contributions required	2,365,500

CALCULATION OF ANNUAL BUDGET AUTHORITY

Increments	Contract term	Total BA	ABA
001	11/01/99–10/31/00	\$1,300,000	\$1,191,667
002	01/01/00–12/31/00	1,200,000	900,000
003	04/01/00–03/31/01	950,000	475,000
004	07/01/00–06/30/01	1,500,000	375,000
Totals .....	.....	4,950,000	2,941,667
ABA associated with litigation .....	.....	.....	475,000
Total ABA .....	.....	.....	(2,466,667)

BUDGET AUTHORITY UTILIZATION

Total contributions required	\$2,365,500
divided by	
Annual budget authority	2,466,667
equals	
Budget Authority Utilization	95.9%

Lease-up Rate
The lease-up rate was determined by comparing the reserved units (funding increments active as of the end of the PHA year) to the unit months leased (divided by

12) reported on the combined HUD 52681, Year End Settlement Statement(s) for September 30, 2000; December 31, 2000; March 31, 2001; or June 30, 2001.

Units associated with new funding increments obligated during the last PHA fiscal year and units obligated for litigation were excluded from the reserved units.
Example:

Increments	Contract term	Units
001	11/01/ 99–10/31/00	242
002	01/01/00–12/31/00	224
003	04/01/00–03/31/01	178
004	07/01/00–06/30/01	280
Totals .....	.....	924
Increment 003 litigation .....	.....	(178)
Adjusted contract units .....	.....	746
Unit months leased reported by PHA .....	.....	8,726
divided by 12 .....	.....	727
Units Leased .....	.....	727
Lease-up Rate:		
Units leased .....	.....	727
divided by adjusted contract units equal .....	.....	746
Lease-up Rate .....	.....	97.5%

Certification:	
Executive Director	Date
Section 8 Program Administrator	Date

[FR Doc. 02-4215 Filed 2-21-02; 8:45 am]
BILLING CODE 4210-33-P



Federal Register

**Friday,
February 22, 2002**

Part VI

Department of Education

**Local Flexibility Demonstration Program;
Notice**

DEPARTMENT OF EDUCATION

Local Flexibility Demonstration Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed application requirements, selection criteria, and application process.

SUMMARY: The Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110), authorizes the Secretary of Education to enter into local flexibility demonstration agreements ("Local-Flex" agreements) with up to eighty local educational agencies (LEAs), giving them the flexibility to consolidate certain Federal education funds and to use those funds for any educational purpose permitted under the ESEA in order to meet the State's definition of adequate yearly progress (AYP) and specific, measurable goals for improving student achievement and narrowing achievement gaps. (ESEA Sections 6151 through 6156)

The Secretary will select participating LEAs on a competitive basis using a peer review process. The Secretary may enter into Local-Flex agreements with no more than three LEAs in each State, and the selected LEAs must be in States that have not received State flexibility ("State-Flex") authority under Section 6141 of the ESEA. Each agreement will be for a period of five years, but that time period may be shortened or extended depending on an LEA's performance under the agreement.

In this notice, the Secretary proposes the information that an LEA would be required to submit to meet the Local-Flex application requirements, the criteria that the Department would use to select participating LEAs, and the process that the Department would follow in conducting the Local-Flex competitions.

DATES: We must receive your comments and recommendations on the application requirements, selection criteria, and application process proposed in this notice on or before March 25, 2002.

ADDRESSES: Address all comments about the application requirements, selection criteria, and application process proposed in this notice to Mr. Charles Lovett, Office of School Support and Technology Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E241, Washington, DC 20202. If you prefer to send your comments by facsimile transmission,

use the following number: (202) 205-5870. If you prefer to send your comments through the Internet, use the following address: charles.lovett@ed.gov.

If you want to comment on the information collection requirements, you must send your comments to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Lovett, Group Leader. Telephone: (202) 401-0039 or via Internet: charles.lovett@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

The Secretary is interested in receiving comments on the application requirements, selection criteria, and application process proposed in this notice. The Secretary is also interested in receiving comments on the length of time that applicants should be given to submit their proposals once the notice inviting applications is published in the **Federal Register**.

General

To be eligible for Local-Flex, an LEA must submit to the Department a proposed Local-Flex agreement that contains, among other things, a plan on how the LEA would consolidate and use funds received by formula under the following ESEA provisions: Subpart 2 of part A of Title II (Teacher and Principal Training and Recruiting); subpart 1 of part D of Title II (Enhancing Education Through Technology); subpart 1 of part A of Title IV (Safe and Drug-Free Schools and Communities); and subpart 1 of part A of Title V (Innovative Programs). An LEA does not receive additional Federal funding for participating in Local-Flex. Rather, it receives greater flexibility in spending funds that it receives under the referenced provisions.

The LEA must demonstrate that its proposed agreement offers substantial promise of assisting the LEA in meeting the State's definition of AYP and the LEA's specific, measurable goals. An LEA must also demonstrate that it would meet the general purposes of the programs included in the consolidation. Furthermore, participation in Local-Flex

does not relieve an LEA of its responsibility to provide equitable services for private school students and teachers under the affected programs.

I. Proposed Application Requirements

In order that the Secretary can select Local-Flex participants in accordance with section 6151 of the ESEA, the Secretary proposes that Local-Flex applicants be required to submit the following information, together with other information addressing the statutory application requirements in sections 6151(b) and (c) and the proposed selection criteria:

(a) *Baseline academic data.* Each LEA seeking to enter into a Local-Flex agreement with the Secretary would provide, as part of its proposed agreement, student achievement data for the most recent available school year, as well as descriptions of achievement trends. To the extent possible, data would be provided for both mathematics and reading or language arts, and the results would be disaggregated by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged. (These are the categories, among others, by which results had to be disaggregated under section 1111(b)(3) of the predecessor ESEA, as well as the categories by which data will be disaggregated for determining adequate yearly progress under section 1111(b)(2) of the reauthorized ESEA.)

In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, LEAs could also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators would also be disaggregated.

(b) *Specific, measurable education goals.* Each applicant would submit a five-year Local-Flex plan that contains specific, measurable educational goals, with annual objectives, that the LEA would seek to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals would relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

At the time an LEA submits its initial proposed Local-Flex agreement, the goals in its proposal would not have to relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as its State definition of AYP is submitted to and approved by the Secretary, each LEA that has entered into a Local-Flex agreement would revise its goals, as necessary, based on that definition.

Note: State definitions of AYP under section 1111(b)(2) of the ESEA must be developed and implemented by the end of the 2002–2003 school year.

(c) *Strategies for meeting the goals.* Each applicant would propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan would describe how the applicant would consolidate and use funds received under subpart 2 of part A of Title II (Teacher and Principal Training and Recruitment); subpart 1 of part D of Title II (Enhancing Education Through Technology); subpart 1 of part A of Title IV (Safe and Drug-Free Schools and Communities); and subpart 1 of part A of Title V (Innovative Programs).

Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA would be required to modify, as appropriate, the strategies that it would implement to reach its revised educational goals.

II. Proposed Selection Criteria

The Secretary proposes to use the following criteria to select the LEAs with which he will enter into Local-Flex agreements:

(a) *Identification of the Need for the Local-Flex Agreement.* The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement. In determining the quality of the description and analysis, the Secretary considers the following factors:

(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective, valid, and reliable, and provide disaggregated results.

(ii) The extent to which the proposal identifies achievement gaps among different groups of students.

(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.

(iv) The extent to which the additional flexibility provided under the

Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(b) *Quality of the Educational Goals.* The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement. In determining the quality of the LEA's goals, the Secretary considers the following factors:

(i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable.

(ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement.

(iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators.

(iv) The extent to which the goals support the intent and purposes of the Local-Flex program.

(c) *Quality of the Local-Flex Plan.* The Secretary considers the quality of the LEA's Local-Flex plan. In determining the quality of the Local-Flex plan, the Secretary considers the following factors:

(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.

(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.

(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.

(d) *Adequacy of the Resources.* The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement. In considering the adequacy of the resources, the Secretary considers the following factors:

(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.

(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will be integrated with other resources to meet the goals of the proposed agreement.

(iii) The extent to which costs that the LEA will incur under the Local-Flex

agreement are reasonable in relationship to the goals that will be achieved under the agreement.

III. Proposed Application Process

The Secretary wishes to provide as many LEAs as possible with an opportunity to apply for Local-Flex. He recognizes that some LEAs may be ready to submit a proposed Local-Flex agreement in the near future, while others may need additional time to plan sufficiently for a Local-Flex competition. In order to accommodate both groups of LEAs, the Secretary proposes to conduct two separate Local-Flex competitions.

The Department plans to publish a notice inviting applications for the first competition later this spring and to select the initial group of Local-Flex LEAs shortly thereafter. The Secretary would reserve a number of Local-Flex slots for a subsequent Local-Flex competition that would be conducted in the fall. That competition would involve new Local-Flex applicants as well as unsuccessful applicants from the first competition that may wish to apply again.

The Secretary plans to conduct the initial Local-Flex competition before the State-Flex competition because he believes that it will take States longer to develop State-Flex proposals than it will for LEAs to develop proposed Local-Flex agreements. SEAs seeking State-Flex authority must not only submit a plan that describes how they would consolidate and use certain Federal funds in order to make adequate yearly progress and advance the educational priorities of the State and affected LEAs, but must also include in their State-Flex applications proposed performance agreements that they would enter into with between four and ten LEAs (at least half of which must be "high-poverty LEAs"). It will likely be more difficult and time-consuming for an SEA to develop a State-Flex proposal in coordination with a number of LEAs than it will be for an individual LEA to develop a Local-Flex proposal.

To accommodate the needs of SEAs that are at various stages of meeting the State-Flex requirements, the Secretary intends to conduct two separate State-Flex competitions. The Secretary plans to publish a notice inviting applications for the initial State-Flex competition in late summer (after the first Local-Flex competition), and he intends to select three to four SEAs for State-Flex in that competition. A subsequent State-Flex competition for the remaining State-Flex slots (up to the maximum of seven allowed under the legislation) would be conducted later in the year.

The Secretary would coordinate the State-Flex competitions with the Local-Flex competitions. Under the legislation, the Secretary may enter into Local-Flex agreements only with LEAs in States that do not have State-Flex authority. So as not to preclude an SEA from applying for State-Flex if an LEA in the State has already entered into a Local-Flex agreement with the Secretary, the Secretary would allow such an SEA to seek State-Flex authority if it proposes to incorporate into its State-Flex proposal any Local-Flex agreements granted to LEAs in the State.

If an SEA notifies the Secretary, by May 8, 2002, that it will be applying for State-Flex, an LEA in that State is precluded by statute from applying for Local-Flex until a final determination is made concerning the SEA's State-Flex application, should one subsequently be submitted. The May 8, 2002 date is not the deadline for submission of a State-Flex application. Rather it is the final date, established in the legislation, by which an SEA may preclude LEAs in the State from applying for Local-Flex by notifying the Department that it intends to apply for State-Flex.

An SEA that chooses not to notify the Department prior to May 8, 2002 that it will be applying for State-Flex may nonetheless seek State-Flex authority once the State-Flex competition is conducted. LEAs in that State, however, would have an opportunity to seek Local-Flex before that SEA seeks State-Flex. As noted previously, an SEA would not be precluded from applying for State-Flex so long as it agrees to incorporate into its State-Flex proposal any Local-Flex agreements already entered into between the Secretary and LEAs in the State. The Department will announce more details on the State-Flex competitions in a future notice in the **Federal Register**.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3E241, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 am and 4:00 pm, Eastern time, Monday through Friday of each week, except Federal holidays.

Executive Order 12866

This notice has been reviewed in accordance with Executive Order 12866.

Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice are those associated resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice, we have determined that the benefits justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits: It is not anticipated that the application requirements proposed in this notice will impose any significant costs on applicants. Since these regulations provide a basis for the Secretary to negotiate local flexibility demonstration agreements with up to 80 LEAs, giving the LEAs the flexibility to consolidate certain Federal education funds, the regulations would not impose any unfunded mandates on States or LEAs. The benefits of the program are described in the **SUMMARY** section of this notice.

Regulatory Flexibility Act Certification

The Secretary certifies that the requirements in this notice would not have a significant economic impact on a substantial number of small entities. The small entities affected by these regulations would be small LEAs. Since the Secretary is only authorized to enter into agreements with up to 80 LEAs, the requirements proposed in this notice will not affect a significant number of LEAs. In addition, these requirements are minimal and are necessary to ensure effective program management.

Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that have federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Although we do not believe these proposed regulations would have federalism implications as defined in Executive Order 13132, we encourage State and local elected officials to review them and to provide comments.

Paperwork Reduction Act of 1995

This document contains proposed data requirements. The feedback received on these data requirements will eventually result in a new information collection and will be under the review of the Office of Management and Budget (OMB) until OMB approves the data requirements at the time of the final notice.

If you want to comment on the proposed information collection requirements, please send your comments to Mr. Charles Lovett, Office of School Support and Technology Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E241, Washington, DC 20202. **Electronic Access to this Document:** You may view this document, as well as other Department of Education documents published in the **Federal Register** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1-888-293-6498; or in the Washington DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: www.access.gpo.gov/nara/index.html.

Program Authority: Sections 6151 through 6156 of the ESEA, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110).

Dated: February 19, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02-4257 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-P



Federal Register

**Friday,
February 22, 2002**

Part VI

Department of Education

**Local Flexibility Demonstration Program;
Notice**

DEPARTMENT OF EDUCATION**Local Flexibility Demonstration Program**

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed application requirements, selection criteria, and application process.

SUMMARY: The Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110), authorizes the Secretary of Education to enter into local flexibility demonstration agreements ("Local-Flex" agreements) with up to eighty local educational agencies (LEAs), giving them the flexibility to consolidate certain Federal education funds and to use those funds for any educational purpose permitted under the ESEA in order to meet the State's definition of adequate yearly progress (AYP) and specific, measurable goals for improving student achievement and narrowing achievement gaps. (ESEA Sections 6151 through 6156)

The Secretary will select participating LEAs on a competitive basis using a peer review process. The Secretary may enter into Local-Flex agreements with no more than three LEAs in each State, and the selected LEAs must be in States that have not received State flexibility ("State-Flex") authority under Section 6141 of the ESEA. Each agreement will be for a period of five years, but that time period may be shortened or extended depending on an LEA's performance under the agreement.

In this notice, the Secretary proposes the information that an LEA would be required to submit to meet the Local-Flex application requirements, the criteria that the Department would use to select participating LEAs, and the process that the Department would follow in conducting the Local-Flex competitions.

DATES: We must receive your comments and recommendations on the application requirements, selection criteria, and application process proposed in this notice on or before March 25, 2002.

ADDRESSES: Address all comments about the application requirements, selection criteria, and application process proposed in this notice to Mr. Charles Lovett, Office of School Support and Technology Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E241, Washington, DC 20202. If you prefer to send your comments by facsimile transmission,

use the following number: (202) 205-5870. If you prefer to send your comments through the Internet, use the following address: charles.lovett@ed.gov.

If you want to comment on the information collection requirements, you must send your comments to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Lovett, Group Leader. Telephone: (202) 401-0039 or via Internet: charles.lovett@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:**Invitation to Comment**

The Secretary is interested in receiving comments on the application requirements, selection criteria, and application process proposed in this notice. The Secretary is also interested in receiving comments on the length of time that applicants should be given to submit their proposals once the notice inviting applications is published in the **Federal Register**.

General

To be eligible for Local-Flex, an LEA must submit to the Department a proposed Local-Flex agreement that contains, among other things, a plan on how the LEA would consolidate and use funds received by formula under the following ESEA provisions: Subpart 2 of part A of Title II (Teacher and Principal Training and Recruiting); subpart 1 of part D of Title II (Enhancing Education Through Technology); subpart 1 of part A of Title IV (Safe and Drug-Free Schools and Communities); and subpart 1 of part A of Title V (Innovative Programs). An LEA does not receive additional Federal funding for participating in Local-Flex. Rather, it receives greater flexibility in spending funds that it receives under the referenced provisions.

The LEA must demonstrate that its proposed agreement offers substantial promise of assisting the LEA in meeting the State's definition of AYP and the LEA's specific, measurable goals. An LEA must also demonstrate that it would meet the general purposes of the programs included in the consolidation. Furthermore, participation in Local-Flex

does not relieve an LEA of its responsibility to provide equitable services for private school students and teachers under the affected programs.

I. Proposed Application Requirements

In order that the Secretary can select Local-Flex participants in accordance with section 6151 of the ESEA, the Secretary proposes that Local-Flex applicants be required to submit the following information, together with other information addressing the statutory application requirements in sections 6151(b) and (c) and the proposed selection criteria:

(a) *Baseline academic data.* Each LEA seeking to enter into a Local-Flex agreement with the Secretary would provide, as part of its proposed agreement, student achievement data for the most recent available school year, as well as descriptions of achievement trends. To the extent possible, data would be provided for both mathematics and reading or language arts, and the results would be disaggregated by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged. (These are the categories, among others, by which results had to be disaggregated under section 1111(b)(3) of the predecessor ESEA, as well as the categories by which data will be disaggregated for determining adequate yearly progress under section 1111(b)(2) of the reauthorized ESEA.)

In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, LEAs could also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators would also be disaggregated.

(b) *Specific, measurable education goals.* Each applicant would submit a five-year Local-Flex plan that contains specific, measurable educational goals, with annual objectives, that the LEA would seek to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals would relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

At the time an LEA submits its initial proposed Local-Flex agreement, the goals in its proposal would not have to relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as its State definition of AYP is submitted to and approved by the Secretary, each LEA that has entered into a Local-Flex agreement would revise its goals, as necessary, based on that definition.

Note: State definitions of AYP under section 1111(b)(2) of the ESEA must be developed and implemented by the end of the 2002–2003 school year.

(c) *Strategies for meeting the goals.* Each applicant would propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan would describe how the applicant would consolidate and use funds received under subpart 2 of part A of Title II (Teacher and Principal Training and Recruitment); subpart 1 of part D of Title II (Enhancing Education Through Technology); subpart 1 of part A of Title IV (Safe and Drug-Free Schools and Communities); and subpart 1 of part A of Title V (Innovative Programs).

Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA would be required to modify, as appropriate, the strategies that it would implement to reach its revised educational goals.

II. Proposed Selection Criteria

The Secretary proposes to use the following criteria to select the LEAs with which he will enter into Local-Flex agreements:

(a) *Identification of the Need for the Local-Flex Agreement.* The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement. In determining the quality of the description and analysis, the Secretary considers the following factors:

(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective, valid, and reliable, and provide disaggregated results.

(ii) The extent to which the proposal identifies achievement gaps among different groups of students.

(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.

(iv) The extent to which the additional flexibility provided under the

Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(b) *Quality of the Educational Goals.* The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement. In determining the quality of the LEA's goals, the Secretary considers the following factors:

(i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable.

(ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement.

(iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators.

(iv) The extent to which the goals support the intent and purposes of the Local-Flex program.

(c) *Quality of the Local-Flex Plan.* The Secretary considers the quality of the LEA's Local-Flex plan. In determining the quality of the Local-Flex plan, the Secretary considers the following factors:

(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.

(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.

(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.

(d) *Adequacy of the Resources.* The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement. In considering the adequacy of the resources, the Secretary considers the following factors:

(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.

(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will be integrated with other resources to meet the goals of the proposed agreement.

(iii) The extent to which costs that the LEA will incur under the Local-Flex

agreement are reasonable in relationship to the goals that will be achieved under the agreement.

III. Proposed Application Process

The Secretary wishes to provide as many LEAs as possible with an opportunity to apply for Local-Flex. He recognizes that some LEAs may be ready to submit a proposed Local-Flex agreement in the near future, while others may need additional time to plan sufficiently for a Local-Flex competition. In order to accommodate both groups of LEAs, the Secretary proposes to conduct two separate Local-Flex competitions.

The Department plans to publish a notice inviting applications for the first competition later this spring and to select the initial group of Local-Flex LEAs shortly thereafter. The Secretary would reserve a number of Local-Flex slots for a subsequent Local-Flex competition that would be conducted in the fall. That competition would involve new Local-Flex applicants as well as unsuccessful applicants from the first competition that may wish to apply again.

The Secretary plans to conduct the initial Local-Flex competition before the State-Flex competition because he believes that it will take States longer to develop State-Flex proposals than it will for LEAs to develop proposed Local-Flex agreements. SEAs seeking State-Flex authority must not only submit a plan that describes how they would consolidate and use certain Federal funds in order to make adequate yearly progress and advance the educational priorities of the State and affected LEAs, but must also include in their State-Flex applications proposed performance agreements that they would enter into with between four and ten LEAs (at least half of which must be "high-poverty LEAs"). It will likely be more difficult and time-consuming for an SEA to develop a State-Flex proposal in coordination with a number of LEAs than it will be for an individual LEA to develop a Local-Flex proposal.

To accommodate the needs of SEAs that are at various stages of meeting the State-Flex requirements, the Secretary intends to conduct two separate State-Flex competitions. The Secretary plans to publish a notice inviting applications for the initial State-Flex competition in late summer (after the first Local-Flex competition), and he intends to select three to four SEAs for State-Flex in that competition. A subsequent State-Flex competition for the remaining State-Flex slots (up to the maximum of seven allowed under the legislation) would be conducted later in the year.

The Secretary would coordinate the State-Flex competitions with the Local-Flex competitions. Under the legislation, the Secretary may enter into Local-Flex agreements only with LEAs in States that do not have State-Flex authority. So as not to preclude an SEA from applying for State-Flex if an LEA in the State has already entered into a Local-Flex agreement with the Secretary, the Secretary would allow such an SEA to seek State-Flex authority if it proposes to incorporate into its State-Flex proposal any Local-Flex agreements granted to LEAs in the State.

If an SEA notifies the Secretary, by May 8, 2002, that it will be applying for State-Flex, an LEA in that State is precluded by statute from applying for Local-Flex until a final determination is made concerning the SEA's State-Flex application, should one subsequently be submitted. The May 8, 2002 date is not the deadline for submission of a State-Flex application. Rather it is the final date, established in the legislation, by which an SEA may preclude LEAs in the State from applying for Local-Flex by notifying the Department that it intends to apply for State-Flex.

An SEA that chooses not to notify the Department prior to May 8, 2002 that it will be applying for State-Flex may nonetheless seek State-Flex authority once the State-Flex competition is conducted. LEAs in that State, however, would have an opportunity to seek Local-Flex before that SEA seeks State-Flex. As noted previously, an SEA would not be precluded from applying for State-Flex so long as it agrees to incorporate into its State-Flex proposal any Local-Flex agreements already entered into between the Secretary and LEAs in the State. The Department will announce more details on the State-Flex competitions in a future notice in the **Federal Register**.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3E241, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 am and 4:00 pm, Eastern time, Monday through Friday of each week, except Federal holidays.

Executive Order 12866

This notice has been reviewed in accordance with Executive Order 12866.

Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice are those associated resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice, we have determined that the benefits justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits: It is not anticipated that the application requirements proposed in this notice will impose any significant costs on applicants. Since these regulations provide a basis for the Secretary to negotiate local flexibility demonstration agreements with up to 80 LEAs, giving the LEAs the flexibility to consolidate certain Federal education funds, the regulations would not impose any unfunded mandates on States or LEAs. The benefits of the program are described in the **SUMMARY** section of this notice.

Regulatory Flexibility Act Certification

The Secretary certifies that the requirements in this notice would not have a significant economic impact on a substantial number of small entities. The small entities affected by these regulations would be small LEAs. Since the Secretary is only authorized to enter into agreements with up to 80 LEAs, the requirements proposed in this notice will not affect a significant number of LEAs. In addition, these requirements are minimal and are necessary to ensure effective program management.

Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that have federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Although we do not believe these proposed regulations would have federalism implications as defined in Executive Order 13132, we encourage State and local elected officials to review them and to provide comments.

Paperwork Reduction Act of 1995

This document contains proposed data requirements. The feedback received on these data requirements will eventually result in a new information collection and will be under the review of the Office of Management and Budget (OMB) until OMB approves the data requirements at the time of the final notice.

If you want to comment on the proposed information collection requirements, please send your comments to Mr. Charles Lovett, Office of School Support and Technology Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E241, Washington, DC 20202. **Electronic Access to this Document:** You may view this document, as well as other Department of Education documents published in the **Federal Register** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1-888-293-6498; or in the Washington DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: www.access.gpo.gov/nara/index.html.

Program Authority: Sections 6151 through 6156 of the ESEA, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110).

Dated: February 19, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02-4257 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-P



Federal Register

**Friday,
February 22, 2002**

Part VII

Department of Education

**Office of Special Education and
Rehabilitative Services; List of
Correspondence; Notice**

DEPARTMENT OF EDUCATION**Office of Special Education and Rehabilitative Services; List of Correspondence**

AGENCY: Department of Education.

ACTION: List of correspondence from July 1, 2001 through September 30, 2001.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

FOR FURTHER INFORMATION CONTACT: Melisande Lee or JoLeta Reynolds. Telephone: (202) 205-5507.

If you use a telecommunications device for the deaf (TDD) you may call (202) 205-5637 or the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205-8113.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued from July 1, 2001 through September 30, 2001.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part A—General Provisions*Section 607—Requirements for Prescribing Regulations*

Topic Addressed: Applicability of Regulations

- OSEP memorandum 01-18 dated September 12, 2001 to State Directors of Special Education, regarding the availability of electronic copies of letters

of clarification and selected OSEP memoranda on the OSEP web page at: <http://www.ed.gov/offices/OSERS/OSEP/>

Part B—Assistance for Education of all Children With Disabilities*Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations.*

Topic Addressed: Allocation of Grants

- Letter dated July 6, 2001 to Federated States of Micronesia Secretary of Health, Education and Social Affairs Dr. Eliuel K. Pretrick, regarding funding for the Special Education Program for Pacific Island Entities grant under Part B of IDEA.

Topic Addressed: Distribution of Funds Provided to the Secretary of the Interior

- Letter dated July 23, 2001 to Arizona Special Education Coordinator David Dickman, regarding the use of funds and formula allocations to provide special education and related services to Indian children with disabilities on reservations.

Topic Addressed: Use of Funds

- Letter dated September 19, 2001 to Alabama State Superintendent of Education Dr. Ed Richardson, regarding the use of Part B funds to pay for litigation costs incurred as a result of compliance with specific provisions of the Part B of IDEA award.

Topic Addressed: Use of Funds and Allocation of Grants

- Letter dated July 24, 2001 to U.S. Representative Patsy Mink, regarding the purpose and use of IDEA funding, including funding of the IDEA at 40 percent of the average per pupil expenditures in public elementary and secondary schools in the United States, the allocation and distribution of IDEA grants to States, and payments for children with disabilities under the Impact Aid program.

Section 612—State Eligibility.

Topic Addressed: Condition of Assistance

- Letter dated July 2, 2001 to individual, (personally identifiable information redacted), regarding (1) the Office of Special Education's obligation to ensure compliance with the IDEA and its implementing regulations, including its monitoring of Florida's implementation and (2) the discretion a State has in choosing whether the State educational agency or the public agency directly responsible for the education of the child conducts due process hearings.

Topic Addressed: Free Appropriate Public Education

- Letter dated July 5, 2001 to Seattle Children's Home President R. David Cousineau and Manager David L. Halbett, regarding the child find, educational, and financial responsibilities under the IDEA for children with disabilities placed in psychiatric residential treatment programs.

Topic Addressed: State Educational Agency General Supervisory Authority

- Letter dated September 21, 2001 to New York State SAFE (Schools Are For Everyone) President Holly B. Nann, regarding the requirements for filing a complaint with a State educational agency and the obligations the State has in responding to a filed complaint.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements.

Topic Addressed: Evaluations and Reevaluations

- Letter dated September 24, 2001 to Virginia Department of Education Assistant Superintendent H. Douglas Cox, regarding the Part B of IDEA requirement that parental consent must be obtained before the initial evaluation, the reevaluation, and the provision of special education and related services and the fact that Part B of the IDEA does not permit public agencies to override a parent's refusal of consent for initial services.

Topic Addressed: Individualized Education Programs

- Letter dated July 2, 2001 to Marilyn Shepherd, Ed.D., clarifying issues regarding the presence of media at individualized education program (IEP) meetings, including that, although parents or the agency have the discretion to invite individuals who have knowledge or special expertise regarding the child to participate at IEP meetings, members of the news media are not there as IEP team members who have knowledge or special expertise regarding the child and his or her specific IEP development in accordance with Part B, and their presence as observers during discussions of sensitive issues could be potentially injurious to the interest of the child.

- Letter dated July 23, 2001 to U.S. Senator Hillary Rodham Clinton, clarifying that although Federal rules do not disallow the presence of an attorney at an IEP meeting, participation by an attorney could create a potentially

adversarial atmosphere and should be strongly discouraged.

Section 615—Procedural Safeguards

Topic Addressed: Independent Educational Evaluations

- Letter dated September 10, 2001 to Wisconsin Director of Special Education Dr. Stephanie J. Petska, regarding the qualifications that school districts may require of individuals who conduct independent educational evaluations.

Part C—Infants and Toddlers With Disabilities

Section 636—Individualized Family Service Plan

Topic Addressed: Natural Environments

- Letter dated August 6, 2001 to U.S. Senator Richard Shelby, regarding the

history of implementation of the natural environments requirements of Part C of the IDEA since the early intervention program was originally enacted, and clarifying that, based on the child's individualized family services plan (IFSP), appropriate services can be provided in center-based programs.

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Dated: February 14, 2002.
(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Loretta L. Petty,

Acting Assistant Secretary for Special Education and, Rehabilitative Services.

[FR Doc. 02-4285 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-U



Federal Register

**Friday,
February 22, 2002**

Part VII

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Dated: February 14, 2002.
(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Loretta L. Petty,

Acting Assistant Secretary for Special Education and, Rehabilitative Services.

[FR Doc. 02-4285 Filed 2-21-02; 8:45 am]

BILLING CODE 4000-01-U



Federal Register

**Friday,
February 22, 2002**

Part VIII

Department of Labor

**Office of Workers' Compensation
Programs**

**Division of Longshore and Harbor
Workers' Compensation; Insurer Security
Deposits; Request for Information; Notice**

DEPARTMENT OF LABOR**Office of Workers' Compensation Programs****Division of Longshore and Harbor Workers' Compensation; Insurer Security Deposits; Request for Information****Security Deposits**

The Division of Longshore and Harbor Workers' Compensation (DLHWC) has long required a security deposit from all self-insured employers, and from insurers under certain conditions. These security deposits provide the funds that may be necessary to continue timely benefit payments to claimants without shifting the cost to all other self-insurers and insurance carriers, through increased assessments for the Special Fund, in the event that an employer's or insurer's insolvency would otherwise prevent payments.

In the recent past, DLHWC has required deposits from insurers based on the A.M. Best rating of the individual insurer; if an insurer's rating is A-or lower at the initial application for authorization, or falls to that level during participation, DLHWC requires a deposit. The amount of the deposit is

based on DLHWC's evaluation of the insurer's exposure and financial history. The minimum deposit requirement has been \$200,000 for insurers with a small and minimally exposed claims base.

DLHWC is seeking industry input into the evaluation of the security deposit practice. This Notice to the Industry is an invitation to submit your insight, ideas, and suggestions to DLHWC about how to improve the industry evaluation process to determine the circumstances under which DLHWC should require an individual insurance company to deposit securities as a condition of providing insurance in the Longshore system. Are there alternative rating mechanisms that would provide DLHWC with earlier and more objective ratings? Are there other methods of monitoring the financial condition of companies that would be more useful? What are the alternatives to the requirement of a security deposit that would adequately protect workers and the Longshore Special Fund from the costs of insurer insolvency? What incentives might be offered to companies to help avoid the problem? What industry-driven practices might be adopted that would provide equivalent

protections? DLHWC is eager to consider your ideas.

This request constitutes a general solicitation of comments from the public. No person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration of the comment. Please respond not later than March 25, 2002. Written responses, on letterhead, should be addressed to: Michael Niss, Director, Division of Longshore & Harbor Workers' Compensation, U.S. Department of Labor, Constitution Ave. NW., Suite C-4315, Washington, DC 20210.

Electronic responses may be submitted to mniss@dol-esa.gov. Please use the subject line, "Insurer Security Suggestions," and include your name, title, company, address, telephone number, and email address in your submission.

Signed at Washington, DC, this 15th day of February, 2002.

Michael Niss,

Director, Division of Longshore & Harbor Workers' Compensation, Office of Workers' Compensation Programs.

[FR Doc. 02-4308 Filed 2-21-02; 8:45 am]

BILLING CODE 4510-CF-P



Federal Register

**Friday,
February 22, 2002**

Part VIII

Department of Labor

**Office of Workers' Compensation
Programs**

**Division of Longshore and Harbor
Workers' Compensation; Insurer Security
Deposits; Request for Information; Notice**

DEPARTMENT OF LABOR**Office of Workers' Compensation Programs****Division of Longshore and Harbor Workers' Compensation; Insurer Security Deposits; Request for Information****Security Deposits**

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Electronic responses may be submitted to mniss@dol-esa.gov. Please use the subject line, "Insurer Security Suggestions," and include your name, title, company, address, telephone number, and email address in your submission.

Signed at Washington, DC, this 15th day of February, 2002.

Michael Niss,

Director, Division of Longshore & Harbor Workers' Compensation, Office of Workers' Compensation Programs.

[FR Doc. 02-4308 Filed 2-21-02; 8:45 am]

BILLING CODE 4510-CF-P



Federal Register

**Friday,
February 22, 2002**

Part IX

Office of Management and Budget

**Guidelines for Ensuring and Maximizing
the Quality, Objectivity, Utility, and
Integrity of Information Disseminated by
Federal Agencies; Notice; Republication**

OFFICE OF MANAGEMENT AND BUDGET

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication

Editorial Note: Due to numerous errors, this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Thursday, January 3, 2002 at 67 FR 369–378 and was corrected on Tuesday, February 5, 2002 at 67 FR 5365.

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Final guidelines.

SUMMARY: These final guidelines implement section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554; H.R. 5658). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.” By October 1, 2002, agencies must issue their own implementing guidelines that include “administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency” that does not comply with the OMB guidelines. These final guidelines also reflect the changes OMB made to the guidelines issued September 28, 2001, as a result of receiving additional comment on the “capable of being substantially reproduced” standard (paragraphs V.3.B, V.9, and V.10), which OMB previously issued on September 28, 2001, on an interim final basis.

DATES: *Effective Date:* January 3, 2002.

FOR FURTHER INFORMATION CONTACT: Brooke J. Dickson, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Telephone (202) 395–3785 or by e-mail to informationquality@omb.eop.gov.

SUPPLEMENTARY INFORMATION: In section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554; H.R. 5658), Congress directed the Office of Management and Budget (OMB) to issue, by September 30, 2001, government-wide guidelines that “provide policy and procedural

guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies * * *” Section 515(b) goes on to state that the OMB guidelines shall:

“(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and
“(2) require that each Federal agency to which the guidelines apply—

“(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

“(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and
“(C) report periodically to the Director—

“(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency and;

“(ii) how such complaints were handled by the agency.”

Proposed guidelines were published in the **Federal Register** on June 28, 2001 (66 FR 34489). Final guidelines were published in the **Federal Register** on September 28, 2001 (66 FR 49718). The Supplementary Information to the final guidelines published in September 2001 provides background, the underlying principles OMB followed in issuing the final guidelines, and statements of intent concerning detailed provisions in the final guidelines.

In the final guidelines published in September 2001, OMB also requested additional comment on the “capable of being substantially reproduced” standard and the related definition of “influential scientific or statistical information” (paragraphs V.3.B, V.9, and V.10), which were issued on an interim final basis. The final guidelines published today discuss the public comments OMB received, the OMB response, and amendments to the final guidelines published in September 2001.

In developing agency-specific guidelines, agencies should refer both to the Supplementary Information to the final guidelines published in the **Federal Register** on September 28, 2001 (66 FR 49718), and also to the Supplementary Information published today. We stress that the three “Underlying Principles” that OMB

followed in drafting the guidelines that we published on September 28, 2001 (66 FR 49719), are also applicable to the amended guidelines that we publish today.

In accordance with section 515, OMB has designed the guidelines to help agencies ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate (meaning to share with, or give access to, the public). It is crucial that information Federal agencies disseminate meets these guidelines. In this respect, the fact that the Internet enables agencies to communicate information quickly and easily to a wide audience not only offers great benefits to society, but also increases the potential harm that can result from the dissemination of information that does not meet basic information quality guidelines. Recognizing the wide variety of information Federal agencies disseminate and the wide variety of dissemination practices that agencies have, OMB developed the guidelines with several principles in mind.

First, OMB designed the guidelines to apply to a wide variety of government information dissemination activities that may range in importance and scope. OMB also designed the guidelines to be generic enough to fit all media, be they printed, electronic, or in other form. OMB sought to avoid the problems that would be inherent in developing detailed, prescriptive, “one-size-fits-all” government-wide guidelines that would artificially require different types of dissemination activities to be treated in the same manner. Through this flexibility, each agency will be able to incorporate the requirements of these OMB guidelines into the agency’s own information resource management and administrative practices.

Second, OMB designed the guidelines so that agencies will meet basic information quality standards. Given the administrative mechanisms required by section 515 as well as the standards set forth in the Paperwork Reduction Act, it is clear that agencies should not disseminate substantive information that does not meet a basic level of quality. We recognize that some government information may need to meet higher or more specific information quality standards than those that would apply to other types of government information. The more important the information, the higher the quality standards to which it should be held, for example, in those situations involving “influential scientific, financial, or statistical information” (a phrase defined in these guidelines). The guidelines recognize, however, that

information quality comes at a cost. Accordingly, the agencies should weigh the costs (for example, including costs attributable to agency processing effort, respondent burden, maintenance of needed privacy, and assurances of suitable confidentiality) and the benefits of higher information quality in the development of information, and the level of quality to which the information disseminated will be held.

Third, OMB designed the guidelines so that agencies can apply them in a common-sense and workable manner. It is important that these guidelines do not impose unnecessary administrative burdens that would inhibit agencies from continuing to take advantage of the Internet and other technologies to disseminate information that can be of great benefit and value to the public. In this regard, OMB encourages agencies to incorporate the standards and procedures required by these guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes. The primary example of this is that the guidelines recognize that, in accordance with OMB Circular A-130, agencies already have in place well-established information quality standards and administrative mechanisms that allow persons to seek and obtain correction of information that is maintained and disseminated by the agency. Under the OMB guidelines, agencies need only ensure that their own guidelines are consistent with these OMB guidelines, and then ensure that their administrative mechanisms satisfy the standards and procedural requirements in the new agency guidelines. Similarly, agencies may rely on their implementation of the Federal Government's computer security laws (formerly, the Computer Security Act, and now the computer security provisions of the Paperwork Reduction Act) to establish appropriate security safeguards for ensuring the "integrity" of the information that the agencies disseminate.

In addition, in response to concerns expressed by some of the agencies, we want to emphasize that OMB recognizes that Federal agencies provide a wide variety of data and information. Accordingly, OMB understands that the guidelines discussed below cannot be implemented in the same way by each agency. In some cases, for example, the data disseminated by an agency are not collected by that agency; rather, the information the agency must provide in a timely manner is compiled from a variety of sources that are constantly updated and revised and may be

confidential. In such cases, while agencies' implementation of the guidelines may differ, the essence of the guidelines will apply. That is, these agencies must make their methods transparent by providing documentation, ensure quality by reviewing the underlying methods used in developing the data and consulting (as appropriate) with experts and users, and keep users informed about corrections and revisions.

Summary of OMB Guidelines

These guidelines apply to Federal agencies subject to the Paperwork Reduction Act (44 U.S.C. chapter 35). Agencies are directed to develop information resources management procedures for reviewing and substantiating (by documentation or other means selected by the agency) the quality (including the objectivity, utility, and integrity) of information before it is disseminated. In addition, agencies are to establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated by the agency that does not comply with the OMB or agency guidelines. Consistent with the underlying principles described above, these guidelines stress the importance of having agencies apply these standards and develop their administrative mechanisms so they can be implemented in a common sense and workable manner. Moreover, agencies must apply these standards flexibly, and in a manner appropriate to the nature and timeliness of the information to be disseminated, and incorporate them into existing agency information resources management and administrative practices.

Section 515 denotes four substantive terms regarding information disseminated by Federal agencies: quality, utility, objectivity, and integrity. It is not always clear how each substantive term relates—or how the four terms in aggregate relate—to the widely divergent types of information that agencies disseminate. The guidelines provide definitions that attempt to establish a clear meaning so that both the agency and the public can readily judge whether a particular type of information to be disseminated does or does not meet these attributes.

In the guidelines, OMB defines "quality" as the encompassing term, of which "utility," "objectivity," and "integrity" are the constituents. "Utility" refers to the usefulness of the information to the intended users. "Objectivity" focuses on whether the disseminated information is being

presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable, and unbiased. "Integrity" refers to security—the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. OMB modeled the definitions of "information," "government information," "information dissemination product," and "dissemination" on the longstanding definitions of those terms in OMB Circular A-130, but tailored them to fit into the context of these guidelines.

In addition, Section 515 imposes two reporting requirements on the agencies. The first report, to be promulgated no later than October 1, 2002, must provide the agency's information quality guidelines that describe administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of disseminated information that does not comply with the OMB and agency guidelines. The second report is an annual fiscal year report to OMB (to be first submitted on January 1, 2004) providing information (both quantitative and qualitative, where appropriate) on the number, nature, and resolution of complaints received by the agency regarding its perceived or confirmed failure to comply with these OMB and agency guidelines.

Public Comments and OMB Response

Applicability of Guidelines. Some comments raised concerns about the applicability of these guidelines, particularly in the context of scientific research conducted by Federally employed scientists or Federal grantees who publish and communicate their research findings in the same manner as their academic colleagues. OMB believes that information generated and disseminated in these contexts is not covered by these guidelines unless the agency represents the information as, or uses the information in support of, an official position of the agency.

As a general matter, these guidelines apply to "information" that is "disseminated" by agencies subject to the Paperwork Reduction Act (44 U.S.C. 3502(1)). See paragraphs II, V.5 and V.8. The definitions of "information" and "dissemination" establish the scope of the applicability of these guidelines. "Information" means "any communication or representation of knowledge such as facts or data * * *". This definition of information in paragraph V.5 does "not include opinions, where the agency's presentation makes it clear that what is

being offered is someone's opinion rather than fact or the agency's views."

"Dissemination" is defined to mean "agency initiated or sponsored distribution of information to the public." As used in paragraph V.8, "agency INITIATED * * * distribution of information to the public" refers to information that the agency disseminates, e.g., a risk assessment prepared by the agency to inform the agency's formulation of possible regulatory or other action. In addition, if an agency, as an institution, disseminates information prepared by an outside party in a manner that reasonably suggests that the agency agrees with the information, this appearance of having the information represent agency views makes agency dissemination of the information subject to these guidelines. By contrast, an agency does not "initiate" the dissemination of information when a Federally employed scientist or Federal grantee or contractor publishes and communicates his or her research findings in the same manner as his or her academic colleagues, even if the Federal agency retains ownership or other intellectual property rights because the Federal government paid for the research. To avoid confusion regarding whether the agency agrees with the information (and is therefore disseminating it through the employee or grantee), the researcher should include an appropriate disclaimer in the publication or speech to the effect that the "views are mine, and do not necessarily reflect the view" of the agency.

Similarly, as used in paragraph V.8., "agency * * * SPONSORED distribution of information to the public" refers to situations where an agency has directed a third-party to disseminate information, or where the agency has the authority to review and approve the information before release. Therefore, for example, if an agency through a procurement contract or a grant provides for a person to conduct research, and then the agency directs the person to disseminate the results (or the agency reviews and approves the results before they may be disseminated), then the agency has "sponsored" the dissemination of this information. By contrast, if the agency simply provides funding to support research, and it the researcher (not the agency) who decides whether to disseminate the results and—if the results are to be released—who determines the content and presentation of the dissemination, then the agency has not "sponsored" the dissemination even though it has funded the research

and even if the Federal agency retains ownership or other intellectual property rights because the Federal government paid for the research. To avoid confusion regarding whether the agency is sponsoring the dissemination, the researcher should include an appropriate disclaimer in the publication or speech to the effect that the "views are mine, and do not necessarily reflect the view" of the agency. On the other hand, subsequent agency dissemination of such information requires that the information adhere to the agency's information quality guidelines. In sum, these guidelines govern an agency's dissemination of information, but generally do not govern a third-party's dissemination of information (the exception being where the agency is essentially using the third-party to disseminate information on the agency's behalf). Agencies, particularly those that fund scientific research, are encouraged to clarify the applicability of these guidelines to the various types of information they and their employees and grantees disseminate.

Paragraph V.8 also states that the definition of "dissemination" does not include "* * * distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes." The exemption from the definition of "dissemination" for "adjudicative processes" is intended to exclude, from the scope of these guidelines, the findings and determinations that an agency makes in the course of adjudications involving specific parties. There are well-established procedural safeguards and rights to address the quality of adjudicatory decisions and to provide persons with an opportunity to contest decisions. These guidelines do not impose any additional requirements on agencies during adjudicative proceedings and do not provide parties to such adjudicative proceedings any additional rights of challenge or appeal.

The Presumption Favoring Peer-Reviewed Information. As a general matter, in the scientific and research context, we regard technical information that has been subjected to formal, independent, external peer review as presumptively objective. As the guidelines state in paragraph V.3.b.i: "If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity." An example of a formal, independent, external peer review is the review process used by scientific journals.

Most comments approved of the prominent role that peer review plays in the OMB guidelines. Some comments contended that peer review was not accepted as a universal standard that incorporates an established, practiced, and sufficient level of objectivity. Other comments stated that the guidelines would be better clarified by making peer review one of several factors that an agency should consider in assessing the objectivity (and quality in general) of original research. In addition, several comments noted that peer review does not establish whether analytic results are capable of being substantially reproduced. In light of the comments, the final guidelines in new paragraph V.3.b.i qualify the presumption in favor of peer-reviewed information as follows: "However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance."

We believe that transparency is important for peer review, and these guidelines set minimum standards for the transparency of agency-sponsored peer review. As we state in new paragraph V.3.b.i: "If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance. If agency-sponsored peer review is employed to help satisfy the objectivity standard, the review process employed shall meet the general criteria for competent and credible peer review recommended by OMB-OIRA to the President's Management Council (9/20/01) (http://www.whitehouse.gov/omb/inforeg/oira_review-process.html), namely, 'that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner.'"

The importance of these general criteria for competent and credible peer review has been supported by a number of expert bodies. For example, "the work of fully competent peer-review panels can be undermined by allegations of conflict of interest and bias. Therefore, the best interests of the Board are served by effective policies and procedures regarding potential conflicts of interest, impartiality, and panel balance." (*EPA's Science Advisory*

Board Panels: Improved Policies and Procedures Needed to Ensure Independence and Balance, GAO-01-536, General Accounting Office, Washington, DC, June 2001, page 19.)

As another example, "risk analyses should be peer-reviewed and accessible—both physically and intellectually—so that decision-makers at all levels will be able to respond critically to risk characterizations. The intensity of the peer reviews should be commensurate with the significance of the risk or its management implications." (*Setting Priorities, Getting Results: A New Direction for EPA*, Summary Report, National Academy of Public Administration, Washington, DC, April 1995, page 23.)

These criteria for peer reviewers are generally consistent with the practices now followed by the National Research Council of the National Academy of Sciences. In considering these criteria for peer reviewers, we note that there are many types of peer reviews and that agency guidelines concerning the use of peer review should tailor the rigor of peer review to the importance of the information involved. More generally, agencies should define their peer-review standards in appropriate ways, given the nature and importance of the information they disseminate.

Is Journal Peer Review Always Sufficient? Some comments argued that journal peer review should be adequate to demonstrate quality, even for influential information that can be expected to have major effects on public policy. OMB believes that this position overstates the effectiveness of journal peer review as a quality-control mechanism.

Although journal peer review is clearly valuable, there are cases where flawed science has been published in respected journals. For example, the NIH Office of Research Integrity recently reported the following case regarding environmental health research:

"Based on the report of an investigation conducted by [XX] University, dated July 16, 1999, and additional analysis conducted by ORI in its oversight review, the US Public Health Service found that Dr. [X] engaged in scientific misconduct. Dr. [X] committed scientific misconduct by intentionally falsifying the research results published in the journal *SCIENCE* and by providing falsified and fabricated materials to investigating officials at [XX] University in response to a request for original data to support the research results and conclusions report in the *SCIENCE* paper. In addition, PHS finds that there is no original data or other corroborating evidence to support the research results and conclusions reported in the *SCIENCE* paper as a whole." (66 FR 52137, October 12, 2001).

Although such cases of falsification are presumably rare, there is a significant scholarly literature documenting quality problems with articles published in peer-reviewed research. "In a [peer-reviewed] meta-analysis that surprised many—and some doubt—researchers found little evidence that peer review actually improves the quality of research papers." (See, e.g., *Science*, Vol. 293, page 2187 (September 21, 2001.)) In part for this reason, many agencies have already adopted peer review and science advisory practices that go beyond journal peer review. See, e.g., Sheila Jasanoff, *The Fifth Branch: Science Advisers as Policy Makers*, Cambridge, MA, Harvard University Press, 1990; Mark R. Powell, *Science at EPA: Information in the Regulatory Process*. Resources for the Future, Washington, DC., 1999, pages 138–139; 151–153; *Implementation of the Environmental Protection Agency's Peer Review Program: An SAB Evaluation of Three Reviews*, EPA-SAB-RSAC-01-009, A Review of the Research Strategies Advisory Committee (RSAC) of the EPA Science Advisory Board (SAB), Washington, DC., September 26, 2001. For information likely to have an important public policy or private sector impact, OMB believes that additional quality checks beyond peer review are appropriate.

Definition of "Influential". OMB guidelines apply stricter quality standards to the dissemination of information that is considered "influential." Comments noted that the breadth of the definition of "influential" in interim final paragraph V.9 requires much speculation on the part of agencies.

We believe that this criticism has merit and have therefore narrowed the definition. In this narrower definition, "influential", when used in the phrase "influential scientific, financial, or statistical information", is amended to mean that "the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions." The intent of the new phrase "clear and substantial" is to reduce the need for speculation on the part of agencies. We added the present tense—"or does have"—to this narrower definition because on occasion, an information dissemination may occur simultaneously with a particular policy change. In response to a public comment, we added an explicit reference to "financial" information as consistent with our original intent.

Given the differences in the many Federal agencies covered by these

guidelines, and the differences in the nature of the information they disseminate, we also believe it will be helpful if agencies elaborate on this definition of "influential" in the context of their missions and duties, with due consideration of the nature of the information they disseminate. As we state in amended paragraph V.9, "Each agency is authorized to define 'influential' in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible."

Reproducibility. As we state in new paragraph V.3.b.ii: "If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties." OMB believes that a reproducibility standard is practical and appropriate for information that is considered "influential", as defined in paragraph V.9—that "will have or does have a clear and substantial impact on important public policies or important private sector decisions." The reproducibility standard applicable to influential scientific, financial, or statistical information is intended to ensure that information disseminated by agencies is sufficiently transparent in terms of data and methods of analysis that it would be feasible for a replication to be conducted. The fact that the use of original and supporting data and analytic results have been deemed "defensible" by peer-review procedures does not necessarily imply that the results are transparent and replicable.

Reproducibility of Original and Supporting Data. Several of the comments objected to the exclusion of original and supporting data from the reproducibility requirements. Comments instead suggested that OMB should apply the reproducibility standard to original data, and that OMB should provide flexibility to the agencies in determining what constitutes "original and supporting" data. OMB agrees and asks that agencies consider, in developing their own guidelines, which categories of original and supporting data should be subject to the reproducibility standard and which should not. To help in resolving this issue, we also ask agencies to consult directly with relevant scientific and technical communities on the feasibility of having the selected categories of original and supporting data subject to the reproducibility standard. Agencies are encouraged to address ethical, feasibility, and confidentiality issues

with care. As we state in new paragraph V.3.b.ii.A, "Agencies may identify, in consultation with the relevant scientific and technical communities, those particular types of data that can practicably be subjected to a reproducibility requirement, given ethical, feasibility, or confidentiality constraints." Further, as we state in our expanded definition of "reproducibility" in paragraph V.10, "If agencies apply the reproducibility test to specific types of original or supporting data, the associated guidelines shall provide relevant definitions of reproducibility (e.g., standards for replication of laboratory data)." OMB urges caution in the treatment of original and supporting data because it may often be impractical or even impermissible or unethical to apply the reproducibility standard to such data. For example, it may not be ethical to repeat a "negative" (ineffective) clinical (therapeutic) experiment and it may not be feasible to replicate the radiation exposures studied after the Chernobyl accident. When agencies submit their draft agency guidelines for OMB review, agencies should include a description of the extent to which the reproducibility standard is applicable and reflect consultations with relevant scientific and technical communities that were used in developing guidelines related to applicability of the reproducibility standard to original and supporting data.

It is also important to emphasize that the reproducibility standard does not apply to all original and supporting data disseminated by agencies. As we state in new paragraph V.3.b.ii.A, "With regard to original and supporting data related [to influential scientific, financial, or statistical information], agency guidelines shall not require that all disseminated data be subjected to a reproducibility requirement." In addition, we encourage agencies to address how greater transparency can be achieved regarding original and supporting data. As we also state in new paragraph V.3.b.ii.A, "It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e., a new experiment, test, or sample) shall not be required prior to each dissemination." Agency guidelines need to achieve a high degree of transparency about data even when reproducibility is not required.

Reproducibility of Analytic Results. Many public comments were critical of the reproducibility standard and expressed concern that agencies would

be required to reproduce each analytical result before it is disseminated. While several comments commended OMB for establishing an appropriate balance in the "capable of being substantially reproduced" standard, others considered this standard to be inherently subjective. There were also comments that suggested the standard would cause more burden for agencies.

It is not OMB's intent that each agency must reproduce each analytic result before it is disseminated. The purpose of the reproducibility standard is to cultivate a consistent agency commitment to transparency about how analytic results are generated: the specific data used, the various assumptions employed, the specific analytic methods applied, and the statistical procedures employed. If sufficient transparency is achieved on each of these matters, then an analytic result should meet the "capable of being substantially reproduced" standard.

While there is much variation in types of analytic results, OMB believes that reproducibility is a practical standard to apply to most types of analytic results. As we state in new paragraph V.3.b.ii.B, "With regard to analytic results related [to influential scientific, financial, or statistical information], agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. These transparency standards apply to agency analysis of data from a single study as well as to analyses that combine information from multiple studies." We elaborate upon this principle in our expanded definition of "reproducibility" in paragraph V.10: "With respect to analytic results, 'capable of being substantially reproduced' means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error."

Even in a situation where the original and supporting data are protected by confidentiality concerns, or the analytic computer models or other research methods may be kept confidential to protect intellectual property, it may still be feasible to have the analytic results subject to the reproducibility standard. For example, a qualified party, operating under the same confidentiality protections as the original analysts, may be asked to use the same data, computer model or statistical methods to replicate the analytic results reported in the original study. See, e.g., "Reanalysis of the

Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality," A Special Report of the Health Effects Institute's Particle Epidemiology Reanalysis Project, Cambridge, MA, 2000.

The primary benefit of public transparency is not necessarily that errors in analytic results will be detected, although error correction is clearly valuable. The more important benefit of transparency is that the public will be able to assess how much an agency's analytic result hinges on the specific analytic choices made by the agency. Concreteness about analytic choices allows, for example, the implications of alternative technical choices to be readily assessed. This type of sensitivity analysis is widely regarded as an essential feature of high-quality analysis, yet sensitivity analysis cannot be undertaken by outside parties unless a high degree of transparency is achieved. The OMB guidelines do not compel such sensitivity analysis as a necessary dimension of quality, but the transparency achieved by reproducibility will allow the public to undertake sensitivity studies of interest.

We acknowledge that confidentiality concerns will sometimes preclude public access as an approach to reproducibility. In response to public comment, we have clarified that such concerns do include interests in "intellectual property." To ensure that the OMB guidelines have sufficient flexibility with regard to analytic transparency, OMB has, in new paragraph V.3.b.ii.B.i, provided agencies an alternative approach for classes or types of analytic results that cannot practically be subject to the reproducibility standard. "[In those situations involving influential scientific, financial, or statistical information * * *] making the data and methods publicly available will assist in determining whether analytic results are reproducible. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections." Specifically, in cases where reproducibility will not occur due to other compelling interests, we expect agencies (1) to perform robustness checks appropriate to the importance of the information involved, e.g., determining whether a specific statistic is sensitive to the choice of analytic method, and, accompanying the information disseminated, to document their efforts to assure the needed robustness in information quality, and (2) address in their guidelines the

degree to which they anticipate the opportunity for reproducibility to be limited by the confidentiality of underlying data. As we state in new paragraph V.3.b.ii.B.ii, “In situations where public access to data and methods will not occur due to other compelling interests, agencies shall apply especially rigorous robustness checks to analytic results and document what checks were undertaken. Agency guidelines shall, however, in all cases, require a disclosure of the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed.”

Given the differences in the many Federal agencies covered by these guidelines, and the differences in robustness checks and the level of detail for documentation thereof that might be appropriate for different agencies, we also believe it will be helpful if agencies elaborate on these matters in the context of their missions and duties, with due consideration of the nature of the information they disseminate. As we state in new paragraph V.3.b.ii.B.ii, “Each agency is authorized to define the type of robustness checks, and the level of detail for documentation thereof, in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.”

We leave the determination of the appropriate degree of rigor to the discretion of agencies and the relevant scientific and technical communities that work with the agencies. We do, however, establish a general standard for the appropriate degree of rigor in our expanded definition of “reproducibility” in paragraph V.10: “‘Reproducibility’ means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased).” OMB will review each agency’s treatment of this issue when reviewing the agency guidelines as a whole.

Comments also expressed concerns regarding interim final paragraph V.3.B.iii, “making the data and models publicly available will assist in determining whether analytic results are capable of being substantially reproduced,” and whether it could be interpreted to constitute public dissemination of these materials, rendering moot the reproducibility test. (For the equivalent provision, see new paragraph V.3.b.ii.B.i.) The OMB guidelines do not require agencies to reproduce each disseminated analytic result by independent reanalysis. Thus,

public dissemination of data and models *per se* does not mean that the analytic result has been reproduced. It means only that the result should be CAPABLE of being reproduced. The transparency associated with this capability of reproduction is what the OMB guidelines are designed to achieve.

We also want to build on a general observation that we made in our final guidelines published in September 2001. In those guidelines we stated: “... in those situations involving influential scientific[, financial,] or statistical information, the substantial reproducibility standard is added as a quality standard above and beyond some peer review quality standards” (66 FR 49722 (September 28, 2001)). A hypothetical example may serve to illustrate this point. Assume that two Federal agencies initiated or sponsored the dissemination of five scientific studies after October 1, 2002 (see paragraph III.4) that were, before dissemination, subjected to formal, independent, external peer review, i.e., that met the presumptive standard for “objectivity” under paragraph V.3.b.i. Further assume, at the time of dissemination, that neither agency reasonably expected that the dissemination of any of these studies would have “a clear and substantial impact” on important public policies, i.e., that these studies were not considered “influential” under paragraph V.9, and thus not subject to the reproducibility standards in paragraphs V.3.b.ii.A or B. Then assume, two years later, in 2005, that one of the agencies decides to issue an important and far-reaching regulation based clearly and substantially on the agency’s evaluation of the analytic results set forth in these five studies and that such agency reliance on these five studies as published in the agency’s notice of proposed rulemaking would constitute dissemination of these five studies. These guidelines would require the rulemaking agency, prior to publishing the notice of proposed rulemaking, to evaluate these five studies to determine if the analytic results stated therein would meet the “capable of being substantially reproduced” standards in paragraph V.3.b.ii.B and, if necessary, related standards governing original and supporting data in paragraph V.3.b.ii.A. If the agency were to decide that any of the five studies would not meet the reproducibility standard, the agency may still rely on them but only if they satisfy the transparency standard and—as applicable—the disclosure of

robustness checks required by these guidelines. Otherwise, the agency should not disseminate any of the studies that did not meet the applicable standards in the guidelines at the time it publishes the notice of proposed rulemaking.

Some comments suggested that OMB consider replacing the reproducibility standard with a standard concerning “confirmation” of results for influential scientific and statistical information. Although we encourage agencies to consider “confirmation” as a relevant standard—at least in some cases—for assessing the objectivity of original and supporting data, we believe that “confirmation” is too stringent a standard to apply to analytic results. Often the regulatory impact analysis prepared by an agency for a major rule, for example, will be the only formal analysis of an important subject. It would be unlikely that the results of the regulatory impact analysis had already been confirmed by other analyses. The “capable of being substantially reproduced” standard is less stringent than a “confirmation” standard because it simply requires that an agency’s analysis be sufficiently transparent that another qualified party could replicate it through reanalysis.

Health, Safety, and Environmental Information. We note, in the scientific context, that in 1996 the Congress, for health decisions under the Safe Drinking Water Act, adopted a basic standard of quality for the use of science in agency decisionmaking. Under 42 U.S.C. 300g–1(b)(3)(A), an agency is directed, “to the degree that an Agency action is based on science,” to use “(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and (ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).”

We further note that in the 1996 amendments to the Safe Drinking Water Act, Congress adopted a basic quality standard for the dissemination of public information about risks of adverse health effects. Under 42 U.S.C. 300g–1(b)(3)(B), the agency is directed, “to ensure that the presentation of information [risk] effects is comprehensive, informative, and understandable.” The agency is further directed, “in a document made available to the public in support of a regulation [to] specify, to the extent practicable— (i) each population addressed by any estimate [of applicable risk effects]; (ii) the expected risk or central estimate of

risk for the specific populations [affected]; (iii) each appropriate upper-bound or lower-bound estimate of risk; (iv) each significant uncertainty identified in the process of the assessment of [risk] effects and the studies that would assist in resolving the uncertainty; and (v) peer-reviewed studies known to the [agency] that support, are directly relevant to, or fail to support any estimate of [risk] effects and the methodology used to reconcile inconsistencies in the scientific data.”

As suggested in several comments, we have included these congressional standards directly in new paragraph V.3.b.ii.C, and made them applicable to the information disseminated by all the agencies subject to these guidelines: “With regard to analysis of risks to human health, safety and the environment maintained or disseminated by the agencies, agencies shall either adopt or adapt the quality principles applied by Congress to risk information used and disseminated pursuant to the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B)).” The word “adapt” is intended to provide agencies flexibility in applying these principles to various types of risk assessment.

Comments also argued that the continued flow of vital information from agencies responsible for disseminating health and medical information to medical providers, patients, and the public may be disrupted due to these peer review and reproducibility standards. OMB responded by adding to new paragraph V.3.b.ii.C: “Agencies responsible for dissemination of vital health and medical information shall interpret the reproducibility and peer-review standards in a manner appropriate to assuring the timely flow of vital information from agencies to medical providers, patients, health agencies, and the public. Information quality standards may be waived temporarily by agencies under urgent situations (e.g., imminent threats to public health or homeland security) in accordance with the latitude specified in agency-specific guidelines.”

Administrative Correction Mechanisms. In addition to commenting on the substantive standards in these guidelines, many of the comments noted that the OMB guidelines on the administrative correction of information do not specify a time period in which the agency investigation and response must be made. OMB has added the following new paragraph III.3.i to direct agencies to specify appropriate time periods in which the investigation and response need to be made. “Agencies shall specify appropriate time periods

for agency decisions on whether and how to correct the information, and agencies shall notify the affected persons of the corrections made.”

Several comments stated that the OMB guidelines needed to direct agencies to consider incorporating an administrative appeal process into their administrative mechanisms for the correction of information. OMB agreed, and added the following new paragraph III.3.ii: “If the person who requested the correction does not agree with the agency’s decision (including the corrective action, if any), the person may file for reconsideration within the agency. The agency shall establish an administrative appeal process to review the agency’s initial decision, and specify appropriate time limits in which to resolve such requests for reconsideration.” Recognizing that many agencies already have a process in place to respond to public concerns, it is not necessarily OMB’s intent to require these agencies to establish a new or different process. Rather, our intent is to ensure that agency guidelines specify an objective administrative appeal process that, upon further complaint by the affected person, reviews an agency’s decision to disagree with the correction request. An objective process will ensure that the office that originally disseminates the information does not have responsibility for both the initial response and resolution of a disagreement. In addition, the agency guidelines should specify that if the agency believes other agencies may have an interest in the resolution of any administrative appeal, the agency should consult with those other agencies about their possible interest.

Overall, OMB does not envision administrative mechanisms that would burden agencies with frivolous claims. Instead, the correction process should serve to address the genuine and valid needs of the agency and its constituents without disrupting agency processes. Agencies, in making their determination of whether or not to correct information, may reject claims made in bad faith or without justification, and are required to undertake only the degree of correction that they conclude is appropriate for the nature and timeliness of the information involved, and explain such practices in their annual fiscal year reports to OMB.

OMB’s issuance of these final guidelines is the beginning of an evolutionary process that will include draft agency guidelines, public comment, final agency guidelines, development of experience with OMB and agency guidelines, and continued refinement of both OMB and agency guidelines. Just as OMB requested

public comment before issuing these final guidelines, OMB will refine these guidelines as experience develops and further public comment is obtained.

Dated: December 21, 2001.

John D. Graham,

Administrator, Office of Information and Regulatory Affairs.

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

I. OMB Responsibilities

Section 515 of the Treasury and General Government Appropriations Act for FY2001 (Public Law 106–554) directs the Office of Management and Budget to issue government-wide guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies.

II. Agency Responsibilities

Section 515 directs agencies subject to the Paperwork Reduction Act (44 U.S.C. 3502(1)) to—

1. Issue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency no later than one year after the date of issuance of the OMB guidelines;

2. Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines; and

3. Report to the Director of OMB the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines concerning the quality, objectivity, utility, and integrity of information and how such complaints were resolved.

III. Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

1. Overall, agencies shall adopt a basic standard of quality (including objectivity, utility, and integrity) as a performance goal and should take appropriate steps to incorporate information quality criteria into agency information dissemination practices. Quality is to be ensured and established at levels appropriate to the nature and timeliness of the information to be disseminated. Agencies shall adopt

specific standards of quality that are appropriate for the various categories of information they disseminate.

2. As a matter of good and effective agency information resources management, agencies shall develop a process for reviewing the quality (including the objectivity, utility, and integrity) of information before it is disseminated. Agencies shall treat information quality as integral to every step of an agency's development of information, including creation, collection, maintenance, and dissemination. This process shall enable the agency to substantiate the quality of the information it has disseminated through documentation or other means appropriate to the information.

3. To facilitate public review, agencies shall establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the agency that does not comply with OMB or agency guidelines. These administrative mechanisms shall be flexible, appropriate to the nature and timeliness of the disseminated information, and incorporated into agency information resources management and administrative practices.

i. Agencies shall specify appropriate time periods for agency decisions on whether and how to correct the information, and agencies shall notify the affected persons of the corrections made.

ii. If the person who requested the correction does not agree with the agency's decision (including the corrective action, if any), the person may file for reconsideration within the agency. The agency shall establish an administrative appeal process to review the agency's initial decision, and specify appropriate time limits in which to resolve such requests for reconsideration.

4. The agency's pre-dissemination review, under paragraph III.2, shall apply to information that the agency first disseminates on or after October 1, 2002. The agency's administrative mechanisms, under paragraph III.3., shall apply to information that the agency disseminates on or after October 1, 2002, regardless of when the agency first disseminated the information.

IV. Agency Reporting Requirements

1. Agencies must designate the Chief Information Officer or another official to be responsible for agency compliance with these guidelines.

2. The agency shall respond to complaints in a manner appropriate to

the nature and extent of the complaint. Examples of appropriate responses include personal contacts via letter or telephone, form letters, press releases or mass mailings that correct a widely disseminated error or address a frequently raised complaint.

3. Each agency must prepare a draft report, no later than April 1, 2002, providing the agency's information quality guidelines and explaining how such guidelines will ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency. This report must also detail the administrative mechanisms developed by that agency to allow affected persons to seek and obtain appropriate correction of information maintained and disseminated by the agency that does not comply with the OMB or the agency guidelines.

4. The agency must publish a notice of availability of this draft report in the **Federal Register**, and post this report on the agency's website, to provide an opportunity for public comment.

5. Upon consideration of public comment and after appropriate revision, the agency must submit this draft report to OMB for review regarding consistency with these OMB guidelines no later than July 1, 2002. Upon completion of that OMB review and completion of this report, agencies must publish notice of the availability of this report in its final form in the **Federal Register**, and post this report on the agency's web site no later than October 1, 2002.

6. On an annual fiscal-year basis, each agency must submit a report to the Director of OMB providing information (both quantitative and qualitative, where appropriate) on the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines and how such complaints were resolved. Agencies must submit these reports no later than January 1 of each following year, with the first report due January 1, 2004.

V. Definitions

1. "Quality" is an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these four statutory terms, collectively, as "quality."

2. "Utility" refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the

perspective of the agency but also from the perspective of the public. As a result, when transparency of information is relevant for assessing the information's usefulness from the public's perspective, the agency must take care to ensure that transparency has been addressed in its review of the information.

3. "Objectivity" involves two distinct elements, presentation and substance.

a. "Objectivity" includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation. Also, the agency needs to identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections) and, in a scientific, financial, or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where appropriate, data should have full, accurate, transparent documentation, and error sources affecting data quality should be identified and disclosed to users.

b. In addition, "objectivity" involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, the original and supporting data shall be generated, and the analytic results shall be developed, using sound statistical and research methods.

i. If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance. If agency-sponsored peer review is employed to help satisfy the objectivity standard, the review process employed shall meet the general criteria for competent and credible peer review recommended by OMB-OIRA to the President's Management Council (9/20/01) (http://www.whitehouse.gov/omb/inforg/oira_review-process.html), namely, "that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and

institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner.”

ii. If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties.

A. With regard to original and supporting data related thereto, agency guidelines shall not require that all disseminated data be subjected to a reproducibility requirement. Agencies may identify, in consultation with the relevant scientific and technical communities, those particular types of data that can practicably be subjected to a reproducibility requirement, given ethical, feasibility, or confidentiality constraints. It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e., a new experiment, test, or sample) shall not be required prior to each dissemination.

B. With regard to analytic results related thereto, agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. These transparency standards apply to agency analysis of data from a single study as well as to analyses that combine information from multiple studies.

i. Making the data and methods publicly available will assist in determining whether analytic results are reproducible. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections.

ii. In situations where public access to data and methods will not occur due to other compelling interests, agencies shall apply especially rigorous robustness checks to analytic results and document what checks were undertaken. Agency guidelines shall, however, in all cases, require a disclosure of the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed. Each agency is authorized to define the type of robustness checks, and the level of

detail for documentation thereof, in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.

C. With regard to analysis of risks to human health, safety and the environment maintained or disseminated by the agencies, agencies shall either adopt or adapt the quality principles applied by Congress to risk information used and disseminated pursuant to the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B)). Agencies responsible for dissemination of vital health and medical information shall interpret the reproducibility and peer-review standards in a manner appropriate to assuring the timely flow of vital information from agencies to medical providers, patients, health agencies, and the public. Information quality standards may be waived temporarily by agencies under urgent situations (e.g., imminent threats to public health or homeland security) in accordance with the latitude specified in agency-specific guidelines.

4. “Integrity” refers to the security of information—protection of the information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

5. “Information” means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where the agency’s presentation makes it clear that what is being offered is someone’s opinion rather than fact or the agency’s views.

6. “Government information” means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

7. “Information dissemination product” means any books, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, an agency disseminates to the public. This definition includes any electronic document, CD-ROM, or web page.

8. “Dissemination” means agency initiated or sponsored distribution of

information to the public (see 5 CFR 1320.3(d) (definition of “Conduct or Sponsor”). Dissemination does not include distribution limited to government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

9. “Influential”, when used in the phrase “influential scientific, financial, or statistical information”, means that the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions. Each agency is authorized to define “influential” in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.

10. “Reproducibility” means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased). If agencies apply the reproducibility test to specific types of original or supporting data, the associated guidelines shall provide relevant definitions of reproducibility (e.g., standards for replication of laboratory data). With respect to analytic results, “capable of being substantially reproduced” means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.

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Editorial Note: Due to numerous errors, this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Thursday, January 3, 2002 at 67 FR 369–378 and was corrected on Tuesday, February 5, 2002 at 67 FR 5365.

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**Friday,
February 22, 2002**

Part IX

Office of Management and Budget

**Guidelines for Ensuring and Maximizing
the Quality, Objectivity, Utility, and
Integrity of Information Disseminated by
Federal Agencies; Notice; Republication**

OFFICE OF MANAGEMENT AND BUDGET

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication

Editorial Note: Due to numerous errors, this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Thursday, January 3, 2002 at 67 FR 369–378 and was corrected on Tuesday, February 5, 2002 at 67 FR 5365.

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Final guidelines.

SUMMARY: These final guidelines implement section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554; H.R. 5658). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.” By October 1, 2002, agencies must issue their own implementing guidelines that include “administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency” that does not comply with the OMB guidelines. These final guidelines also reflect the changes OMB made to the guidelines issued September 28, 2001, as a result of receiving additional comment on the “capable of being substantially reproduced” standard (paragraphs V.3.B, V.9, and V.10), which OMB previously issued on September 28, 2001, on an interim final basis.

DATES: *Effective Date:* January 3, 2002.

FOR FURTHER INFORMATION CONTACT: Brooke J. Dickson, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Telephone (202) 395–3785 or by e-mail to informationquality@omb.eop.gov.

SUPPLEMENTARY INFORMATION: In section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554; H.R. 5658), Congress directed the Office of Management and Budget (OMB) to issue, by September 30, 2001, government-wide guidelines that “provide policy and procedural

guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies * * *” Section 515(b) goes on to state that the OMB guidelines shall:

“(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and
“(2) require that each Federal agency to which the guidelines apply—

“(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

“(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

“(C) report periodically to the Director—

“(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency and;

“(ii) how such complaints were handled by the agency.”

Proposed guidelines were published in the **Federal Register** on June 28, 2001 (66 FR 34489). Final guidelines were published in the **Federal Register** on September 28, 2001 (66 FR 49718). The Supplementary Information to the final guidelines published in September 2001 provides background, the underlying principles OMB followed in issuing the final guidelines, and statements of intent concerning detailed provisions in the final guidelines.

In the final guidelines published in September 2001, OMB also requested additional comment on the “capable of being substantially reproduced” standard and the related definition of “influential scientific or statistical information” (paragraphs V.3.B, V.9, and V.10), which were issued on an interim final basis. The final guidelines published today discuss the public comments OMB received, the OMB response, and amendments to the final guidelines published in September 2001.

In developing agency-specific guidelines, agencies should refer both to the Supplementary Information to the final guidelines published in the **Federal Register** on September 28, 2001 (66 FR 49718), and also to the Supplementary Information published today. We stress that the three “Underlying Principles” that OMB

followed in drafting the guidelines that we published on September 28, 2001 (66 FR 49719), are also applicable to the amended guidelines that we publish today.

In accordance with section 515, OMB has designed the guidelines to help agencies ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate (meaning to share with, or give access to, the public). It is crucial that information Federal agencies disseminate meets these guidelines. In this respect, the fact that the Internet enables agencies to communicate information quickly and easily to a wide audience not only offers great benefits to society, but also increases the potential harm that can result from the dissemination of information that does not meet basic information quality guidelines. Recognizing the wide variety of information Federal agencies disseminate and the wide variety of dissemination practices that agencies have, OMB developed the guidelines with several principles in mind.

First, OMB designed the guidelines to apply to a wide variety of government information dissemination activities that may range in importance and scope. OMB also designed the guidelines to be generic enough to fit all media, be they printed, electronic, or in other form. OMB sought to avoid the problems that would be inherent in developing detailed, prescriptive, “one-size-fits-all” government-wide guidelines that would artificially require different types of dissemination activities to be treated in the same manner. Through this flexibility, each agency will be able to incorporate the requirements of these OMB guidelines into the agency’s own information resource management and administrative practices.

Second, OMB designed the guidelines so that agencies will meet basic information quality standards. Given the administrative mechanisms required by section 515 as well as the standards set forth in the Paperwork Reduction Act, it is clear that agencies should not disseminate substantive information that does not meet a basic level of quality. We recognize that some government information may need to meet higher or more specific information quality standards than those that would apply to other types of government information. The more important the information, the higher the quality standards to which it should be held, for example, in those situations involving “influential scientific, financial, or statistical information” (a phrase defined in these guidelines). The guidelines recognize, however, that

information quality comes at a cost. Accordingly, the agencies should weigh the costs (for example, including costs attributable to agency processing effort, respondent burden, maintenance of needed privacy, and assurances of suitable confidentiality) and the benefits of higher information quality in the development of information, and the level of quality to which the information disseminated will be held.

Third, OMB designed the guidelines so that agencies can apply them in a common-sense and workable manner. It is important that these guidelines do not impose unnecessary administrative burdens that would inhibit agencies from continuing to take advantage of the Internet and other technologies to disseminate information that can be of great benefit and value to the public. In this regard, OMB encourages agencies to incorporate the standards and procedures required by these guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes. The primary example of this is that the guidelines recognize that, in accordance with OMB Circular A-130, agencies already have in place well-established information quality standards and administrative mechanisms that allow persons to seek and obtain correction of information that is maintained and disseminated by the agency. Under the OMB guidelines, agencies need only ensure that their own guidelines are consistent with these OMB guidelines, and then ensure that their administrative mechanisms satisfy the standards and procedural requirements in the new agency guidelines. Similarly, agencies may rely on their implementation of the Federal Government's computer security laws (formerly, the Computer Security Act, and now the computer security provisions of the Paperwork Reduction Act) to establish appropriate security safeguards for ensuring the "integrity" of the information that the agencies disseminate.

In addition, in response to concerns expressed by some of the agencies, we want to emphasize that OMB recognizes that Federal agencies provide a wide variety of data and information. Accordingly, OMB understands that the guidelines discussed below cannot be implemented in the same way by each agency. In some cases, for example, the data disseminated by an agency are not collected by that agency; rather, the information the agency must provide in a timely manner is compiled from a variety of sources that are constantly updated and revised and may be

confidential. In such cases, while agencies' implementation of the guidelines may differ, the essence of the guidelines will apply. That is, these agencies must make their methods transparent by providing documentation, ensure quality by reviewing the underlying methods used in developing the data and consulting (as appropriate) with experts and users, and keep users informed about corrections and revisions.

Summary of OMB Guidelines

These guidelines apply to Federal agencies subject to the Paperwork Reduction Act (44 U.S.C. chapter 35). Agencies are directed to develop information resources management procedures for reviewing and substantiating (by documentation or other means selected by the agency) the quality (including the objectivity, utility, and integrity) of information before it is disseminated. In addition, agencies are to establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated by the agency that does not comply with the OMB or agency guidelines. Consistent with the underlying principles described above, these guidelines stress the importance of having agencies apply these standards and develop their administrative mechanisms so they can be implemented in a common sense and workable manner. Moreover, agencies must apply these standards flexibly, and in a manner appropriate to the nature and timeliness of the information to be disseminated, and incorporate them into existing agency information resources management and administrative practices.

Section 515 denotes four substantive terms regarding information disseminated by Federal agencies: quality, utility, objectivity, and integrity. It is not always clear how each substantive term relates—or how the four terms in aggregate relate—to the widely divergent types of information that agencies disseminate. The guidelines provide definitions that attempt to establish a clear meaning so that both the agency and the public can readily judge whether a particular type of information to be disseminated does or does not meet these attributes.

In the guidelines, OMB defines "quality" as the encompassing term, of which "utility," "objectivity," and "integrity" are the constituents. "Utility" refers to the usefulness of the information to the intended users. "Objectivity" focuses on whether the disseminated information is being

presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable, and unbiased. "Integrity" refers to security—the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. OMB modeled the definitions of "information," "government information," "information dissemination product," and "dissemination" on the longstanding definitions of those terms in OMB Circular A-130, but tailored them to fit into the context of these guidelines.

In addition, Section 515 imposes two reporting requirements on the agencies. The first report, to be promulgated no later than October 1, 2002, must provide the agency's information quality guidelines that describe administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of disseminated information that does not comply with the OMB and agency guidelines. The second report is an annual fiscal year report to OMB (to be first submitted on January 1, 2004) providing information (both quantitative and qualitative, where appropriate) on the number, nature, and resolution of complaints received by the agency regarding its perceived or confirmed failure to comply with these OMB and agency guidelines.

Public Comments and OMB Response

Applicability of Guidelines. Some comments raised concerns about the applicability of these guidelines, particularly in the context of scientific research conducted by Federally employed scientists or Federal grantees who publish and communicate their research findings in the same manner as their academic colleagues. OMB believes that information generated and disseminated in these contexts is not covered by these guidelines unless the agency represents the information as, or uses the information in support of, an official position of the agency.

As a general matter, these guidelines apply to "information" that is "disseminated" by agencies subject to the Paperwork Reduction Act (44 U.S.C. 3502(1)). See paragraphs II, V.5 and V.8. The definitions of "information" and "dissemination" establish the scope of the applicability of these guidelines. "Information" means "any communication or representation of knowledge such as facts or data * * *". This definition of information in paragraph V.5 does "not include opinions, where the agency's presentation makes it clear that what is

being offered is someone's opinion rather than fact or the agency's views."

"Dissemination" is defined to mean "agency initiated or sponsored distribution of information to the public." As used in paragraph V.8, "agency INITIATED * * * distribution of information to the public" refers to information that the agency disseminates, e.g., a risk assessment prepared by the agency to inform the agency's formulation of possible regulatory or other action. In addition, if an agency, as an institution, disseminates information prepared by an outside party in a manner that reasonably suggests that the agency agrees with the information, this appearance of having the information represent agency views makes agency dissemination of the information subject to these guidelines. By contrast, an agency does not "initiate" the dissemination of information when a Federally employed scientist or Federal grantee or contractor publishes and communicates his or her research findings in the same manner as his or her academic colleagues, even if the Federal agency retains ownership or other intellectual property rights because the Federal government paid for the research. To avoid confusion regarding whether the agency agrees with the information (and is therefore disseminating it through the employee or grantee), the researcher should include an appropriate disclaimer in the publication or speech to the effect that the "views are mine, and do not necessarily reflect the view" of the agency.

Similarly, as used in paragraph V.8., "agency * * * SPONSORED distribution of information to the public" refers to situations where an agency has directed a third-party to disseminate information, or where the agency has the authority to review and approve the information before release. Therefore, for example, if an agency through a procurement contract or a grant provides for a person to conduct research, and then the agency directs the person to disseminate the results (or the agency reviews and approves the results before they may be disseminated), then the agency has "sponsored" the dissemination of this information. By contrast, if the agency simply provides funding to support research, and it the researcher (not the agency) who decides whether to disseminate the results and—if the results are to be released—who determines the content and presentation of the dissemination, then the agency has not "sponsored" the dissemination even though it has funded the research

and even if the Federal agency retains ownership or other intellectual property rights because the Federal government paid for the research. To avoid confusion regarding whether the agency is sponsoring the dissemination, the researcher should include an appropriate disclaimer in the publication or speech to the effect that the "views are mine, and do not necessarily reflect the view" of the agency. On the other hand, subsequent agency dissemination of such information requires that the information adhere to the agency's information quality guidelines. In sum, these guidelines govern an agency's dissemination of information, but generally do not govern a third-party's dissemination of information (the exception being where the agency is essentially using the third-party to disseminate information on the agency's behalf). Agencies, particularly those that fund scientific research, are encouraged to clarify the applicability of these guidelines to the various types of information they and their employees and grantees disseminate.

Paragraph V.8 also states that the definition of "dissemination" does not include "* * * distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes." The exemption from the definition of "dissemination" for "adjudicative processes" is intended to exclude, from the scope of these guidelines, the findings and determinations that an agency makes in the course of adjudications involving specific parties. There are well-established procedural safeguards and rights to address the quality of adjudicatory decisions and to provide persons with an opportunity to contest decisions. These guidelines do not impose any additional requirements on agencies during adjudicative proceedings and do not provide parties to such adjudicative proceedings any additional rights of challenge or appeal.

The Presumption Favoring Peer-Reviewed Information. As a general matter, in the scientific and research context, we regard technical information that has been subjected to formal, independent, external peer review as presumptively objective. As the guidelines state in paragraph V.3.b.i: "If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity." An example of a formal, independent, external peer review is the review process used by scientific journals.

Most comments approved of the prominent role that peer review plays in the OMB guidelines. Some comments contended that peer review was not accepted as a universal standard that incorporates an established, practiced, and sufficient level of objectivity. Other comments stated that the guidelines would be better clarified by making peer review one of several factors that an agency should consider in assessing the objectivity (and quality in general) of original research. In addition, several comments noted that peer review does not establish whether analytic results are capable of being substantially reproduced. In light of the comments, the final guidelines in new paragraph V.3.b.i qualify the presumption in favor of peer-reviewed information as follows: "However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance."

We believe that transparency is important for peer review, and these guidelines set minimum standards for the transparency of agency-sponsored peer review. As we state in new paragraph V.3.b.i: "If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance. If agency-sponsored peer review is employed to help satisfy the objectivity standard, the review process employed shall meet the general criteria for competent and credible peer review recommended by OMB-OIRA to the President's Management Council (9/20/01) (http://www.whitehouse.gov/omb/inforeg/oira_review-process.html), namely, 'that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner.'"

The importance of these general criteria for competent and credible peer review has been supported by a number of expert bodies. For example, "the work of fully competent peer-review panels can be undermined by allegations of conflict of interest and bias. Therefore, the best interests of the Board are served by effective policies and procedures regarding potential conflicts of interest, impartiality, and panel balance." (*EPA's Science Advisory*

Board Panels: Improved Policies and Procedures Needed to Ensure Independence and Balance, GAO-01-536, General Accounting Office, Washington, DC, June 2001, page 19.)

As another example, “risk analyses should be peer-reviewed and accessible—both physically and intellectually—so that decision-makers at all levels will be able to respond critically to risk characterizations. The intensity of the peer reviews should be commensurate with the significance of the risk or its management implications.” (*Setting Priorities, Getting Results: A New Direction for EPA*, Summary Report, National Academy of Public Administration, Washington, DC, April 1995, page 23.)

These criteria for peer reviewers are generally consistent with the practices now followed by the National Research Council of the National Academy of Sciences. In considering these criteria for peer reviewers, we note that there are many types of peer reviews and that agency guidelines concerning the use of peer review should tailor the rigor of peer review to the importance of the information involved. More generally, agencies should define their peer-review standards in appropriate ways, given the nature and importance of the information they disseminate.

Is Journal Peer Review Always Sufficient? Some comments argued that journal peer review should be adequate to demonstrate quality, even for influential information that can be expected to have major effects on public policy. OMB believes that this position overstates the effectiveness of journal peer review as a quality-control mechanism.

Although journal peer review is clearly valuable, there are cases where flawed science has been published in respected journals. For example, the NIH Office of Research Integrity recently reported the following case regarding environmental health research:

“Based on the report of an investigation conducted by [XX] University, dated July 16, 1999, and additional analysis conducted by ORI in its oversight review, the US Public Health Service found that Dr. [X] engaged in scientific misconduct. Dr. [X] committed scientific misconduct by intentionally falsifying the research results published in the journal *SCIENCE* and by providing falsified and fabricated materials to investigating officials at [XX] University in response to a request for original data to support the research results and conclusions report in the *SCIENCE* paper. In addition, PHS finds that there is no original data or other corroborating evidence to support the research results and conclusions reported in the *SCIENCE* paper as a whole.” (66 FR 52137, October 12, 2001).

Although such cases of falsification are presumably rare, there is a significant scholarly literature documenting quality problems with articles published in peer-reviewed research. “In a [peer-reviewed] meta-analysis that surprised many—and some doubt—researchers found little evidence that peer review actually improves the quality of research papers.” (See, e.g., *Science*, Vol. 293, page 2187 (September 21, 2001.)) In part for this reason, many agencies have already adopted peer review and science advisory practices that go beyond journal peer review. See, e.g., Sheila Jasanoff, *The Fifth Branch: Science Advisers as Policy Makers*, Cambridge, MA, Harvard University Press, 1990; Mark R. Powell, *Science at EPA: Information in the Regulatory Process*. Resources for the Future, Washington, DC., 1999, pages 138–139; 151–153; *Implementation of the Environmental Protection Agency's Peer Review Program: An SAB Evaluation of Three Reviews*, EPA-SAB-RSAC-01-009, A Review of the Research Strategies Advisory Committee (RSAC) of the EPA Science Advisory Board (SAB), Washington, DC., September 26, 2001. For information likely to have an important public policy or private sector impact, OMB believes that additional quality checks beyond peer review are appropriate.

Definition of “Influential”. OMB guidelines apply stricter quality standards to the dissemination of information that is considered “influential.” Comments noted that the breadth of the definition of “influential” in interim final paragraph V.9 requires much speculation on the part of agencies.

We believe that this criticism has merit and have therefore narrowed the definition. In this narrower definition, “influential”, when used in the phrase “influential scientific, financial, or statistical information”, is amended to mean that “the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.” The intent of the new phrase “clear and substantial” is to reduce the need for speculation on the part of agencies. We added the present tense—“or does have”—to this narrower definition because on occasion, an information dissemination may occur simultaneously with a particular policy change. In response to a public comment, we added an explicit reference to “financial” information as consistent with our original intent.

Given the differences in the many Federal agencies covered by these

guidelines, and the differences in the nature of the information they disseminate, we also believe it will be helpful if agencies elaborate on this definition of “influential” in the context of their missions and duties, with due consideration of the nature of the information they disseminate. As we state in amended paragraph V.9, “Each agency is authorized to define ‘influential’ in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.”

Reproducibility. As we state in new paragraph V.3.b.ii: “If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties.” OMB believes that a reproducibility standard is practical and appropriate for information that is considered “influential”, as defined in paragraph V.9—that “will have or does have a clear and substantial impact on important public policies or important private sector decisions.” The reproducibility standard applicable to influential scientific, financial, or statistical information is intended to ensure that information disseminated by agencies is sufficiently transparent in terms of data and methods of analysis that it would be feasible for a replication to be conducted. The fact that the use of original and supporting data and analytic results have been deemed “defensible” by peer-review procedures does not necessarily imply that the results are transparent and replicable.

Reproducibility of Original and Supporting Data. Several of the comments objected to the exclusion of original and supporting data from the reproducibility requirements. Comments instead suggested that OMB should apply the reproducibility standard to original data, and that OMB should provide flexibility to the agencies in determining what constitutes “original and supporting” data. OMB agrees and asks that agencies consider, in developing their own guidelines, which categories of original and supporting data should be subject to the reproducibility standard and which should not. To help in resolving this issue, we also ask agencies to consult directly with relevant scientific and technical communities on the feasibility of having the selected categories of original and supporting data subject to the reproducibility standard. Agencies are encouraged to address ethical, feasibility, and confidentiality issues

with care. As we state in new paragraph V.3.b.ii.A, "Agencies may identify, in consultation with the relevant scientific and technical communities, those particular types of data that can practicably be subjected to a reproducibility requirement, given ethical, feasibility, or confidentiality constraints." Further, as we state in our expanded definition of "reproducibility" in paragraph V.10, "If agencies apply the reproducibility test to specific types of original or supporting data, the associated guidelines shall provide relevant definitions of reproducibility (e.g., standards for replication of laboratory data)." OMB urges caution in the treatment of original and supporting data because it may often be impractical or even impermissible or unethical to apply the reproducibility standard to such data. For example, it may not be ethical to repeat a "negative" (ineffective) clinical (therapeutic) experiment and it may not be feasible to replicate the radiation exposures studied after the Chernobyl accident. When agencies submit their draft agency guidelines for OMB review, agencies should include a description of the extent to which the reproducibility standard is applicable and reflect consultations with relevant scientific and technical communities that were used in developing guidelines related to applicability of the reproducibility standard to original and supporting data.

It is also important to emphasize that the reproducibility standard does not apply to all original and supporting data disseminated by agencies. As we state in new paragraph V.3.b.ii.A, "With regard to original and supporting data related [to influential scientific, financial, or statistical information], agency guidelines shall not require that all disseminated data be subjected to a reproducibility requirement." In addition, we encourage agencies to address how greater transparency can be achieved regarding original and supporting data. As we also state in new paragraph V.3.b.ii.A, "It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e., a new experiment, test, or sample) shall not be required prior to each dissemination." Agency guidelines need to achieve a high degree of transparency about data even when reproducibility is not required.

Reproducibility of Analytic Results. Many public comments were critical of the reproducibility standard and expressed concern that agencies would

be required to reproduce each analytical result before it is disseminated. While several comments commended OMB for establishing an appropriate balance in the "capable of being substantially reproduced" standard, others considered this standard to be inherently subjective. There were also comments that suggested the standard would cause more burden for agencies.

It is not OMB's intent that each agency must reproduce each analytic result before it is disseminated. The purpose of the reproducibility standard is to cultivate a consistent agency commitment to transparency about how analytic results are generated: the specific data used, the various assumptions employed, the specific analytic methods applied, and the statistical procedures employed. If sufficient transparency is achieved on each of these matters, then an analytic result should meet the "capable of being substantially reproduced" standard.

While there is much variation in types of analytic results, OMB believes that reproducibility is a practical standard to apply to most types of analytic results. As we state in new paragraph V.3.b.ii.B, "With regard to analytic results related [to influential scientific, financial, or statistical information], agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. These transparency standards apply to agency analysis of data from a single study as well as to analyses that combine information from multiple studies." We elaborate upon this principle in our expanded definition of "reproducibility" in paragraph V.10: "With respect to analytic results, 'capable of being substantially reproduced' means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error."

Even in a situation where the original and supporting data are protected by confidentiality concerns, or the analytic computer models or other research methods may be kept confidential to protect intellectual property, it may still be feasible to have the analytic results subject to the reproducibility standard. For example, a qualified party, operating under the same confidentiality protections as the original analysts, may be asked to use the same data, computer model or statistical methods to replicate the analytic results reported in the original study. See, e.g., "Reanalysis of the

Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality," A Special Report of the Health Effects Institute's Particle Epidemiology Reanalysis Project, Cambridge, MA, 2000.

The primary benefit of public transparency is not necessarily that errors in analytic results will be detected, although error correction is clearly valuable. The more important benefit of transparency is that the public will be able to assess how much an agency's analytic result hinges on the specific analytic choices made by the agency. Concreteness about analytic choices allows, for example, the implications of alternative technical choices to be readily assessed. This type of sensitivity analysis is widely regarded as an essential feature of high-quality analysis, yet sensitivity analysis cannot be undertaken by outside parties unless a high degree of transparency is achieved. The OMB guidelines do not compel such sensitivity analysis as a necessary dimension of quality, but the transparency achieved by reproducibility will allow the public to undertake sensitivity studies of interest.

We acknowledge that confidentiality concerns will sometimes preclude public access as an approach to reproducibility. In response to public comment, we have clarified that such concerns do include interests in "intellectual property." To ensure that the OMB guidelines have sufficient flexibility with regard to analytic transparency, OMB has, in new paragraph V.3.b.ii.B.i, provided agencies an alternative approach for classes or types of analytic results that cannot practically be subject to the reproducibility standard. "[In those situations involving influential scientific, financial, or statistical information * * *] making the data and methods publicly available will assist in determining whether analytic results are reproducible. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections." Specifically, in cases where reproducibility will not occur due to other compelling interests, we expect agencies (1) to perform robustness checks appropriate to the importance of the information involved, e.g., determining whether a specific statistic is sensitive to the choice of analytic method, and, accompanying the information disseminated, to document their efforts to assure the needed robustness in information quality, and (2) address in their guidelines the

degree to which they anticipate the opportunity for reproducibility to be limited by the confidentiality of underlying data. As we state in new paragraph V.3.b.ii.B.ii, "In situations where public access to data and methods will not occur due to other compelling interests, agencies shall apply especially rigorous robustness checks to analytic results and document what checks were undertaken. Agency guidelines shall, however, in all cases, require a disclosure of the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed."

Given the differences in the many Federal agencies covered by these guidelines, and the differences in robustness checks and the level of detail for documentation thereof that might be appropriate for different agencies, we also believe it will be helpful if agencies elaborate on these matters in the context of their missions and duties, with due consideration of the nature of the information they disseminate. As we state in new paragraph V.3.b.ii.B.ii, "Each agency is authorized to define the type of robustness checks, and the level of detail for documentation thereof, in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible."

We leave the determination of the appropriate degree of rigor to the discretion of agencies and the relevant scientific and technical communities that work with the agencies. We do, however, establish a general standard for the appropriate degree of rigor in our expanded definition of "reproducibility" in paragraph V.10: "Reproducibility" means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased)." OMB will review each agency's treatment of this issue when reviewing the agency guidelines as a whole.

Comments also expressed concerns regarding interim final paragraph V.3.B.iii, "making the data and models publicly available will assist in determining whether analytic results are capable of being substantially reproduced," and whether it could be interpreted to constitute public dissemination of these materials, rendering moot the reproducibility test. (For the equivalent provision, see new paragraph V.3.b.ii.B.i.) The OMB guidelines do not require agencies to reproduce each disseminated analytic result by independent reanalysis. Thus,

public dissemination of data and models *per se* does not mean that the analytic result has been reproduced. It means only that the result should be CAPABLE of being reproduced. The transparency associated with this capability of reproduction is what the OMB guidelines are designed to achieve.

We also want to build on a general observation that we made in our final guidelines published in September 2001. In those guidelines we stated: "... in those situations involving influential scientific[, financial,] or statistical information, the substantial reproducibility standard is added as a quality standard above and beyond some peer review quality standards" (66 FR 49722 (September 28, 2001)). A hypothetical example may serve to illustrate this point. Assume that two Federal agencies initiated or sponsored the dissemination of five scientific studies after October 1, 2002 (see paragraph III.4) that were, before dissemination, subjected to formal, independent, external peer review, i.e., that met the presumptive standard for "objectivity" under paragraph V.3.b.i. Further assume, at the time of dissemination, that neither agency reasonably expected that the dissemination of any of these studies would have "a clear and substantial impact" on important public policies, i.e., that these studies were not considered "influential" under paragraph V.9, and thus not subject to the reproducibility standards in paragraphs V.3.b.ii.A or B. Then assume, two years later, in 2005, that one of the agencies decides to issue an important and far-reaching regulation based clearly and substantially on the agency's evaluation of the analytic results set forth in these five studies and that such agency reliance on these five studies as published in the agency's notice of proposed rulemaking would constitute dissemination of these five studies. These guidelines would require the rulemaking agency, prior to publishing the notice of proposed rulemaking, to evaluate these five studies to determine if the analytic results stated therein would meet the "capable of being substantially reproduced" standards in paragraph V.3.b.ii.B and, if necessary, related standards governing original and supporting data in paragraph V.3.b.ii.A. If the agency were to decide that any of the five studies would not meet the reproducibility standard, the agency may still rely on them but only if they satisfy the transparency standard and—as applicable—the disclosure of

robustness checks required by these guidelines. Otherwise, the agency should not disseminate any of the studies that did not meet the applicable standards in the guidelines at the time it publishes the notice of proposed rulemaking.

Some comments suggested that OMB consider replacing the reproducibility standard with a standard concerning "confirmation" of results for influential scientific and statistical information. Although we encourage agencies to consider "confirmation" as a relevant standard—at least in some cases—for assessing the objectivity of original and supporting data, we believe that "confirmation" is too stringent a standard to apply to analytic results. Often the regulatory impact analysis prepared by an agency for a major rule, for example, will be the only formal analysis of an important subject. It would be unlikely that the results of the regulatory impact analysis had already been confirmed by other analyses. The "capable of being substantially reproduced" standard is less stringent than a "confirmation" standard because it simply requires that an agency's analysis be sufficiently transparent that another qualified party could replicate it through reanalysis.

Health, Safety, and Environmental Information. We note, in the scientific context, that in 1996 the Congress, for health decisions under the Safe Drinking Water Act, adopted a basic standard of quality for the use of science in agency decisionmaking. Under 42 U.S.C. 300g–1(b)(3)(A), an agency is directed, "to the degree that an Agency action is based on science," to use "(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and (ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data)."

We further note that in the 1996 amendments to the Safe Drinking Water Act, Congress adopted a basic quality standard for the dissemination of public information about risks of adverse health effects. Under 42 U.S.C. 300g–1(b)(3)(B), the agency is directed, "to ensure that the presentation of information [risk] effects is comprehensive, informative, and understandable." The agency is further directed, "in a document made available to the public in support of a regulation [to] specify, to the extent practicable— (i) each population addressed by any estimate [of applicable risk effects]; (ii) the expected risk or central estimate of

risk for the specific populations [affected]; (iii) each appropriate upper-bound or lower-bound estimate of risk; (iv) each significant uncertainty identified in the process of the assessment of [risk] effects and the studies that would assist in resolving the uncertainty; and (v) peer-reviewed studies known to the [agency] that support, are directly relevant to, or fail to support any estimate of [risk] effects and the methodology used to reconcile inconsistencies in the scientific data.”

As suggested in several comments, we have included these congressional standards directly in new paragraph V.3.b.ii.C, and made them applicable to the information disseminated by all the agencies subject to these guidelines: “With regard to analysis of risks to human health, safety and the environment maintained or disseminated by the agencies, agencies shall either adopt or adapt the quality principles applied by Congress to risk information used and disseminated pursuant to the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B)).” The word “adapt” is intended to provide agencies flexibility in applying these principles to various types of risk assessment.

Comments also argued that the continued flow of vital information from agencies responsible for disseminating health and medical information to medical providers, patients, and the public may be disrupted due to these peer review and reproducibility standards. OMB responded by adding to new paragraph V.3.b.ii.C: “Agencies responsible for dissemination of vital health and medical information shall interpret the reproducibility and peer-review standards in a manner appropriate to assuring the timely flow of vital information from agencies to medical providers, patients, health agencies, and the public. Information quality standards may be waived temporarily by agencies under urgent situations (e.g., imminent threats to public health or homeland security) in accordance with the latitude specified in agency-specific guidelines.”

Administrative Correction Mechanisms. In addition to commenting on the substantive standards in these guidelines, many of the comments noted that the OMB guidelines on the administrative correction of information do not specify a time period in which the agency investigation and response must be made. OMB has added the following new paragraph III.3.i to direct agencies to specify appropriate time periods in which the investigation and response need to be made. “Agencies shall specify appropriate time periods

for agency decisions on whether and how to correct the information, and agencies shall notify the affected persons of the corrections made.”

Several comments stated that the OMB guidelines needed to direct agencies to consider incorporating an administrative appeal process into their administrative mechanisms for the correction of information. OMB agreed, and added the following new paragraph III.3.ii: “If the person who requested the correction does not agree with the agency’s decision (including the corrective action, if any), the person may file for reconsideration within the agency. The agency shall establish an administrative appeal process to review the agency’s initial decision, and specify appropriate time limits in which to resolve such requests for reconsideration.” Recognizing that many agencies already have a process in place to respond to public concerns, it is not necessarily OMB’s intent to require these agencies to establish a new or different process. Rather, our intent is to ensure that agency guidelines specify an objective administrative appeal process that, upon further complaint by the affected person, reviews an agency’s decision to disagree with the correction request. An objective process will ensure that the office that originally disseminates the information does not have responsibility for both the initial response and resolution of a disagreement. In addition, the agency guidelines should specify that if the agency believes other agencies may have an interest in the resolution of any administrative appeal, the agency should consult with those other agencies about their possible interest.

Overall, OMB does not envision administrative mechanisms that would burden agencies with frivolous claims. Instead, the correction process should serve to address the genuine and valid needs of the agency and its constituents without disrupting agency processes. Agencies, in making their determination of whether or not to correct information, may reject claims made in bad faith or without justification, and are required to undertake only the degree of correction that they conclude is appropriate for the nature and timeliness of the information involved, and explain such practices in their annual fiscal year reports to OMB.

OMB’s issuance of these final guidelines is the beginning of an evolutionary process that will include draft agency guidelines, public comment, final agency guidelines, development of experience with OMB and agency guidelines, and continued refinement of both OMB and agency guidelines. Just as OMB requested

public comment before issuing these final guidelines, OMB will refine these guidelines as experience develops and further public comment is obtained.

Dated: December 21, 2001.

John D. Graham,

Administrator, Office of Information and Regulatory Affairs.

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

I. OMB Responsibilities

Section 515 of the Treasury and General Government Appropriations Act for FY2001 (Public Law 106–554) directs the Office of Management and Budget to issue government-wide guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies.

II. Agency Responsibilities

Section 515 directs agencies subject to the Paperwork Reduction Act (44 U.S.C. 3502(1)) to—

1. Issue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency no later than one year after the date of issuance of the OMB guidelines;

2. Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines; and

3. Report to the Director of OMB the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines concerning the quality, objectivity, utility, and integrity of information and how such complaints were resolved.

III. Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

1. Overall, agencies shall adopt a basic standard of quality (including objectivity, utility, and integrity) as a performance goal and should take appropriate steps to incorporate information quality criteria into agency information dissemination practices. Quality is to be ensured and established at levels appropriate to the nature and timeliness of the information to be disseminated. Agencies shall adopt

specific standards of quality that are appropriate for the various categories of information they disseminate.

2. As a matter of good and effective agency information resources management, agencies shall develop a process for reviewing the quality (including the objectivity, utility, and integrity) of information before it is disseminated. Agencies shall treat information quality as integral to every step of an agency's development of information, including creation, collection, maintenance, and dissemination. This process shall enable the agency to substantiate the quality of the information it has disseminated through documentation or other means appropriate to the information.

3. To facilitate public review, agencies shall establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the agency that does not comply with OMB or agency guidelines. These administrative mechanisms shall be flexible, appropriate to the nature and timeliness of the disseminated information, and incorporated into agency information resources management and administrative practices.

i. Agencies shall specify appropriate time periods for agency decisions on whether and how to correct the information, and agencies shall notify the affected persons of the corrections made.

ii. If the person who requested the correction does not agree with the agency's decision (including the corrective action, if any), the person may file for reconsideration within the agency. The agency shall establish an administrative appeal process to review the agency's initial decision, and specify appropriate time limits in which to resolve such requests for reconsideration.

4. The agency's pre-dissemination review, under paragraph III.2, shall apply to information that the agency first disseminates on or after October 1, 2002. The agency's administrative mechanisms, under paragraph III.3., shall apply to information that the agency disseminates on or after October 1, 2002, regardless of when the agency first disseminated the information.

IV. Agency Reporting Requirements

1. Agencies must designate the Chief Information Officer or another official to be responsible for agency compliance with these guidelines.

2. The agency shall respond to complaints in a manner appropriate to

the nature and extent of the complaint. Examples of appropriate responses include personal contacts via letter or telephone, form letters, press releases or mass mailings that correct a widely disseminated error or address a frequently raised complaint.

3. Each agency must prepare a draft report, no later than April 1, 2002, providing the agency's information quality guidelines and explaining how such guidelines will ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency. This report must also detail the administrative mechanisms developed by that agency to allow affected persons to seek and obtain appropriate correction of information maintained and disseminated by the agency that does not comply with the OMB or the agency guidelines.

4. The agency must publish a notice of availability of this draft report in the **Federal Register**, and post this report on the agency's website, to provide an opportunity for public comment.

5. Upon consideration of public comment and after appropriate revision, the agency must submit this draft report to OMB for review regarding consistency with these OMB guidelines no later than July 1, 2002. Upon completion of that OMB review and completion of this report, agencies must publish notice of the availability of this report in its final form in the **Federal Register**, and post this report on the agency's web site no later than October 1, 2002.

6. On an annual fiscal-year basis, each agency must submit a report to the Director of OMB providing information (both quantitative and qualitative, where appropriate) on the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines and how such complaints were resolved. Agencies must submit these reports no later than January 1 of each following year, with the first report due January 1, 2004.

V. Definitions

1. "Quality" is an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these four statutory terms, collectively, as "quality."

2. "Utility" refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the

perspective of the agency but also from the perspective of the public. As a result, when transparency of information is relevant for assessing the information's usefulness from the public's perspective, the agency must take care to ensure that transparency has been addressed in its review of the information.

3. "Objectivity" involves two distinct elements, presentation and substance.

a. "Objectivity" includes whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation. Also, the agency needs to identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections) and, in a scientific, financial, or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where appropriate, data should have full, accurate, transparent documentation, and error sources affecting data quality should be identified and disclosed to users.

b. In addition, "objectivity" involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, the original and supporting data shall be generated, and the analytic results shall be developed, using sound statistical and research methods.

i. If data and analytic results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. However, this presumption is rebuttable based on a persuasive showing by the petitioner in a particular instance. If agency-sponsored peer review is employed to help satisfy the objectivity standard, the review process employed shall meet the general criteria for competent and credible peer review recommended by OMB-OIRA to the President's Management Council (9/20/01) (http://www.whitehouse.gov/omb/inforg/oira_review-process.html), namely, "that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and

institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner.”

ii. If an agency is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties.

A. With regard to original and supporting data related thereto, agency guidelines shall not require that all disseminated data be subjected to a reproducibility requirement. Agencies may identify, in consultation with the relevant scientific and technical communities, those particular types of data that can practicably be subjected to a reproducibility requirement, given ethical, feasibility, or confidentiality constraints. It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e., a new experiment, test, or sample) shall not be required prior to each dissemination.

B. With regard to analytic results related thereto, agency guidelines shall generally require sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. These transparency standards apply to agency analysis of data from a single study as well as to analyses that combine information from multiple studies.

i. Making the data and methods publicly available will assist in determining whether analytic results are reproducible. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections.

ii. In situations where public access to data and methods will not occur due to other compelling interests, agencies shall apply especially rigorous robustness checks to analytic results and document what checks were undertaken. Agency guidelines shall, however, in all cases, require a disclosure of the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed. Each agency is authorized to define the type of robustness checks, and the level of

detail for documentation thereof, in ways appropriate for it given the nature and multiplicity of issues for which the agency is responsible.

C. With regard to analysis of risks to human health, safety and the environment maintained or disseminated by the agencies, agencies shall either adopt or adapt the quality principles applied by Congress to risk information used and disseminated pursuant to the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B)). Agencies responsible for dissemination of vital health and medical information shall interpret the reproducibility and peer-review standards in a manner appropriate to assuring the timely flow of vital information from agencies to medical providers, patients, health agencies, and the public. Information quality standards may be waived temporarily by agencies under urgent situations (e.g., imminent threats to public health or homeland security) in accordance with the latitude specified in agency-specific guidelines.

4. “Integrity” refers to the security of information—protection of the information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

5. “Information” means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where the agency’s presentation makes it clear that what is being offered is someone’s opinion rather than fact or the agency’s views.

6. “Government information” means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

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8. “Dissemination” means agency initiated or sponsored distribution of

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[FR Doc. 02–59 Filed 1–2–02; 1:36 pm]

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Editorial Note: Due to numerous errors, this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Thursday, January 3, 2002 at 67 FR 369–378 and was corrected on Tuesday, February 5, 2002 at 67 FR 5365.

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LIST OF PUBLIC LAWS

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H.J. Res. 82/P.L. 107-143

Recognizing the 91st birthday of Ronald Reagan. (Feb. 14, 2002; 116 Stat. 17)

S. 737/P.L. 107-144

To designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the "Joseph E. Dini, Jr. Post Office". (Feb. 14, 2002; 116 Stat. 18)

S. 970/P.L. 107-145

To designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the "Horatio King Post Office Building". (Feb. 14, 2002; 116 Stat. 19)

S. 1026/P.L. 107-146

To designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the "Pat King Post Office Building". (Feb. 14, 2002; 116 Stat. 20)

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