7–15–02 Monday
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Federal Register

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WASHINGTON, DC

WHEN: July 23, 2002—9:00 a.m. to noon

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Conference Room
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Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538; or
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Contents

Federal Register

Vol. 67, No. 135

Monday, July 15, 2002

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Memorandums:

Memorandum of July 2, 2002 46575

7 CFR

Proposed Rules:

993 46423

10 CFR

72 46369

14 CFR

39 46372

91 46568

Proposed Rules:

39 (3 documents) 46423, 46425, 46427

29 CFR

1926 46375

4022 46376

4044 46376

30 CFR

931 46377

Proposed Rules:

14 46431

18 46431

75 46431

917 46432

926 46434

33 CFR

165 (4 documents) 46385, 46387, 46388, 46389

39 CFR

265 46393

40 CFR

63 46393

Proposed Rules:

70 (2 documents) 46439

44 CFR

65 46398

49 CFR

572 46400

50 CFR

300 46420

Proposed Rules:

17 (3 documents) 46440, 46441, 46450

Rules and Regulations

Federal Register
Vol. 67, No. 135
Monday, July 15, 2002

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG97

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the Holtec International HI-STORM 100 cask system listing within the list of approved spent fuel storage casks to include Amendment 1 to Certificate of Compliance (CoC) Number 1014. This amendment modifies the present cask system design to: add four new multipurpose canisters; add new containers for damaged fuel; add the HI-STORM 100S overpack and the 100A and 100SA high-seismic anchored overpacks; allow the storage of high-burnup fuel; delete the Technical Specifications for special requirements for the first systems in place and for training requirements and relocate these requirements to the main body of CoC 1014; and allow the storage of selected nonfuel hardware. The amendment also uses revised thermal analysis tools to include natural convection heat transfer, revises the helium backfill requirements to allow a helium density measurement to be used, allows a helium drying system rather than the existing vacuum drying system, and requires soluble boron during canister loading for certain higher enriched fuels. In addition, modifications will be made to applicable CoC conditions and sections of Appendices A and B to the CoC to reflect the changes.

EFFECTIVE DATE: July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, e-mail jmm2@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear reactor power sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule in 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of dry storage cask designs. The NRC subsequently issued a final rule on May 1, 2000 (65 FR 25241), that approved the Holtec International HI-STORM 100 cask design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1014.

Discussion

On July 3, 2001, and as supplemented on August 13 and 17, and October 5, 12, and 19, 2001, the certificate holder, Holtec International, submitted an application to the NRC to amend CoC No. 1014 to permit a part 72 licensee to: (1) Add four new multipurpose canisters—three for pressurized water reactor fuel and one for boiling water reactor fuel; (2) add new containers for damaged fuel; (3) add the HI-STORM 100S overpack and the 100A and 100SA high-seismic anchored overpacks; (4) allow the storage of high-burnup fuel; (5) delete the Technical Specifications for special requirements for the first systems in place and for training requirements and relocate these requirements to the main body of CoC 1014; and (6) allow the storage of selected nonfuel hardware. The amendment also will utilize revised thermal analysis tools to include natural convection heat transfer, revise the helium backfill requirements to allow a helium density measurement to be used, allow a helium drying system rather than the existing vacuum drying system, and require soluble boron during canister loading for certain higher enriched fuels. In addition, modifications have been made to Conditions 1.a., 1.b., 2, 3, 5, 9, 10, and 11 of the CoC; Sections 3.0 and 5.0 of Appendix A to the CoC; and Sections 1.0, 2.0, and 3.0 of Appendix B to the CoC to reflect the changes. No other changes to the Holtec International HI-STORM 100 cask system design were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there is still reasonable assurance that public health and safety and the environment will be adequately protected.

This rule revises the Holtec International HI-STORM 100 cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1014. The amendment consists of changes to the Technical Specifications as described above. The particular Technical Specifications that are changed are identified in the NRC staff's Safety Evaluation Report (SER) for Amendment 1.

The NRC published a direct final rule (67 FR 14627; March 27, 2002) and the companion proposed rule (67 FR 14662) in the **Federal Register** to revise the Holtec International HI-STORM 100 cask system listing in 10 CFR 72.214 to include Amendment 1 to the CoC. The comment period ended on April 26, 2002. Three comment letters were received on the proposed rule. One comment was considered to be

significant and adverse and warranted withdrawal of the direct final rule. A notice of withdrawal was published in the **Federal Register** on June 7, 2002; 67 FR 39260. Additionally, the NRC staff made minor editorial changes, in response to the two other comment letters, to Appendix B to CoC 1014, for the HI-STORM 100 cask system.

The NRC finds that the amended Holtec International HI-STORM 100 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of part 72. Thus, use of the Holtec International HI-STORM 100 cask system, as approved by the NRC, will continue to provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the Holtec International HI-STORM 100 cask system under the general license in 10 CFR part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on July 15, 2002. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Copies of the public comments are available for review in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD.

Summary of Public Comments on the Proposed Rule

The NRC received three comment letters on the proposed rule. The comments included the State of Illinois and two from the applicant (Holtec International).

Comments on the Holtec International HI-STORM 100 Cask System

Minor changes were made to Appendix B to the CoC to correct several inconsistencies and a typographical error. The SER was not changed as a result of public comments. A review of the comments and the NRC staff's responses follow:

Comment: One commenter suggested editorial changes to Appendix B of the CoC. These changes include a correction to Table 2.1–1 where the term ''water displacement guide tube plugs'' should be used rather than the incorrect term ''water displacement rod guide tubes'' and a typographical error in Table 2.1–3.

Response: The NRC staff agreed with the comments. The suggested changes have been made to Appendix B.

Comment: One commenter raised concerns with the provisions in the draft amended certificate that would allow licensees to store certain items of nonfuel hardware with the spent fuel in the cask. The commenter assumed that this nonfuel hardware was Greater-than-Class-C (GTCC) waste and noted that the NRC, in a recent rulemaking, had prohibited commingling of GTCC waste and spent fuel in the same cask except on a case-by-case basis. The commenter's concerns were focused on (1) the storage of GTCC waste commingled with the fuel, (2) the possibility of adverse interactions between the chemical elements and compounds in the nonfuel hardware and the fuel as well as the material components of the cask, and (3) the absence of documentation of NRC's analysis and criteria to accept storage of the nonfuel hardware.

Response: The NRC disagrees with the comment. First, under 10 CFR 72.3, spent fuel is defined to include ''the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies.'' The nonfuel hardware included burnable poison rod assemblies, thimble plug devices, control rod assemblies, axial power shaping rods, wet annular burnable absorbers, rod cluster control assemblies, control element assemblies, water displacement guide tube plugs, and orifice rod assemblies. These nonfuel hardware items permitted to be stored in the cask by this amendment are ''other radioactive materials associated with fuel assemblies.'' As explained in the GTCC waste rule,[1] the NRC believes that appropriate interim storage for these nonfuel components is with the associated spent fuel. However, with respect to GTCC waste that is not integral to spent fuel assemblies, the NRC concluded that this waste should not be stored in the same cask with spent fuel and that storing this waste would only be allowed on a case-by-case basis after a thorough analysis of possible adverse interactions between the materials in these components and the materials in the cask.

Second, materials interaction between spent fuel and radioactive materials associated with fuel assemblies was considered in the definitions at 10 CFR 72.3 and in the recent rulemaking associated with Interim Storage for Greater Than Class C Waste at 66 FR 51823, and the comment provided no new information suggesting a need for reconsideration of this issue in this rulemaking. From basic corrosion principles, in order for galvanic corrosion/chemical reactions to occur between the spent fuel, the confinement boundary, and nonfuel hardware, an electrolyte is needed (water) and the components must be fairly far apart from one another on the galvanic series. The NRC staff approved the storage of the nonfuel hardware because the cask is dry, backfilled with an inert gas (*i.e.,* no electrolyte is present), and the materials are not at the extreme end of the galvanic series from the spent fuel.

Third, in documenting the NRC's review findings and conclusions, it is neither practical nor appropriate to specify each detail considered in the staff's determination of acceptability. Rather, the documentation focuses on the safety and risk significant factors of the cask's overall performance in areas such as structural integrity, confinement boundary integrity, fuel cladding integrity, radiation shielding, criticality safety, heat removal, and operations and maintenance during normal and accident conditions. Although materials interactions with the nonfuel hardware identified in the comment were considered for acceptability in dry cask storage systems, they do not present conditions that are significant enough to warrant documentation in the SER.

Summary of Final Revisions

Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1014 is revised by adding the effective date of the initial certificate and the effective date of Amendment Number 1.

Good Cause To Dispense With Deferred Effective Date Requirement

The NRC finds that good cause exists to waive the 30-day deferred effective date provisions of the Administrative Procedure Act (5 U.S.C. 553(d)). The primary purpose of the delayed effective date requirement is to give affected persons; *e.g.,* licensees, a reasonable time to prepare to comply with or take other action with respect to the rule. In this case, the rule does not require any action to be taken by licensees. The regulation allows, but does not require, use of the amended Holtec International HI–STORM 100 cask system for the storage of spent nuclear fuel. The amended Holtec International HI–STORM 100 cask system meets the requirements of 10 CFR part 72, is ready to be used, and, as approved by the NRC, will continue to provide adequate protection of public health and safety and the environment.

[1] The NRC published a final rule amending 10 CFR part 72 which authorized the storage of GTCC waste under a Part 72 specific license on October 11, 2001; 66 FR 51823.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Public Law 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending the Holtec International HI–STAR 100 cask system within the list of NRC-approved cask systems for spent fuel storage in 10 CFR 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, the NRC has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. This final rule amends the CoC for the Holtec International HI–STORM 100 cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment modifies the present cask system design to: (1) Add four new multipurpose canisters—three for pressurized water reactor fuel and one for boiling water reactor fuel; (2) add new containers for damaged fuel; (3) add the HI–STORM 100S overpack and the 100A and 100SA high-seismic anchored overpacks; (4) allow the storage of high-burnup fuel; (5) delete the Technical Specification for special requirements for the first systems in place and for training requirements and relocate these requirements to the main body of CoC 1014; and (6) allow the storage of selected nonfuel hardware. The amendment also utilizes revised thermal analysis tools to include natural convection heat transfer, revises the helium backfill requirements to allow a helium density measurement to be used, allows a helium drying system rather than the existing vacuum drying system, and requires soluble boron during canister loading for certain higher enriched fuels. In addition, modifications have been made to Conditions 1.a., 1.b., 2, 3, 5, 9, 10, and 11 of the CoC; Sections 3.0 and 5.0 of Appendix A to the CoC; and Sections 1.0, 2.0, and 3.0 of Appendix B to the CoC to reflect the changes. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR part 72. The amendment provided for the storage of spent nuclear fuel in cask systems with designs approved by the NRC under a general license. Any nuclear power reactor licensee can use cask systems with designs approved by the NRC to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. In that rule, four spent fuel storage casks were approved for use at reactor sites and were listed in 10 CFR 72.214. That rule envisioned that storage casks certified in the future could be routinely added to the listing in 10 CFR 72.214 through the rulemaking process. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR part 72, subpart L. On May 1, 2000 (65 FR 25241), the NRC issued an amendment to Part 72 that approved the Holtec International HI-STORM 100 cask design by adding it to the list of NRC-approved cask designs in § 72.214. On July 3, 2001, and as supplemented on August 13 and 17, and October 5, 12, and 19, 2001, the certificate holder, Holtec International, submitted an application to the NRC to amend CoC No. 1014 to permit a part 72 licensee to: (1) Add four new multipurpose canisters—three for pressurized water reactor fuel and one for boiling water reactor fuel; (2) add new containers for damaged fuel; (3) add the HI-STORM 100S overpack and the 100A and 100SA high-seismic anchored overpacks; (4) allow the storage of high-burnup fuel; (5) delete the Technical Specifications for special requirements for the first systems in place and for training requirements and relocate these requirements to the main body of CoC 1014; and (6) allow the storage of selected nonfuel hardware. The amendment also will utilize revised thermal analysis tools to include natural convection heat transfer, revise the helium backfill requirements to allow a helium density measurement to be used, allow a helium drying system rather than the existing vacuum drying system, and require soluble boron during canister loading for certain higher enriched fuels. In addition, modifications will be made to Conditions 1.a., 1.b., 2, 3, 5, 9, 10, and 11 of the CoC; Sections 3.0 and 5.0 of Appendix A to the CoC; and Sections 1.0, 2.0, and 3.0 of Appendix B to the CoC to reflect the changes.

The alternative to this action is to withhold approval of this amended cask system design and issue a site-specific license to each licensee. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption or a site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under

a general license, and would be in conflict with NWPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees.

This final rule will eliminate the above problems and is consistent with previous Commission actions. Further, this final rule will have no adverse effect on public health and safety. This final rule has no significant identifiable impact on or benefit to other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Holtec International. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014
Initial Certificate Effective Date: June 1, 2000
Amendment Number 1 Effective Date: July 15, 2002.
SAR Submitted by: Holtec International
SAR Title: Final Safety Analysis Report for the HI-STORM 100 Cask System
Docket Number: 72–1014
Certificate Expiration Date: June 1, 2020
Model Number: HI-STORM 100

* * * * *

Dated at Rockville, Maryland, this 30th day of June, 2002.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 02–17648 Filed 7–12–02; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–14–AD; Amendment 39–12819; AD 2002–14–19]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. ADC–85, ADC–85A, ADC–850D, and ADC–850F Air Data Computers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Rockwell Collins, Inc. (Rockwell Collins) ADC–85, ADC–85A, ADC–850D, and ADC–850F air data computers that are installed on airplanes. This AD requires you to replace any affected air data computer (ADC) with one that has a reprogrammed and tested central processing unit (CPU) circuit card and circuit card assembly. This AD is the result of a flight test that showed that these ADC's could display an unwarranted ADC flag in response to the airplane's ''Normal/Alternate Air'' static source selection capability. The actions specified by this AD are intended to prevent an unwarranted display of the ADC flag when switching static air sources. This could cause the flight crew to react to this incorrect flight information and possibly result in an unsafe operating condition.

DATES: This AD becomes effective on August 23, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 23, 2002.

ADDRESSES: You may get the service information referenced in this AD from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498; telephone: (319) 295–2512; facsimile: (319) 295–5064. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–14–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407. E-mail address: *Roger.Souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The air data computer (ADC), as part of its monitoring process, tests for errant sensor behavior such as unreasonable jumps in altitude and unreasonably high vertical speed. When the ADC detects an errant sensor behavior, the ADC displays a flag for 5.5 seconds plus the time it takes for the sensor to settle within the limits for another 5.5-second period. This results in a minimum ADC flag display of 11 seconds.

Testing of certain Rockwell Collins ADCs reveals the ADC could display unwarranted flags on aircraft where you can select the ''Normal/Alternate Air'' static source. When there is a significant difference between normal and alternate/revisionary static air sources, you can exceed the ADC monitor thresholds and the ADC would display flags.

If the flight crew used the undesirable ADC flag displays to deselect the alternate static air source before the initial 11-second display period, a valid air source may have been deselected. Confusion could result when the previously unflagged normal static air source is reselected. This may also result in the ADC displaying a flag for the first 11 seconds. The affected ADC's include:

Unit	Part No.	Applicable to Serial No.
ADC–85 (Incorporating Rockwell Collins Service Bulletin No. 58)	622–8051–002 622–8051–003	All units.
ADC–85A (Incorporating Rockwell Collins Service Bulletin No. 58)	822–0370–113 822–0370–123 822–0370–139 822–0370–404 822–0370–408	All units.
ADC–850D (Incorporating Rockwell Collins Service Bulletin No. 58) ...	822–0389–133	All up to and including 3DGW (except for 1P6D, 22RC–22RF, and 23WK–3DGP).
ADC–850F	822–1036–406 822–1036–418	All units.

What Is the Potential Impact If FAA Took No action?

If these situations were to occur while the flight crew was making critical flight decisions, this unwarranted ADC flag could distract the crew and the lack of attention to the critical actions could result in an unsafe operating condition.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Rockwell Collins ADC–85, ADC–85A, ADC–850D, and ADC–850F air data computers that are installed on airplanes. This proposal was published in the **Federal Register** as a supplemental notice of proposed rulemaking (NPRM) on March 30, 2002 (67 FR 12910). The supplemental NPRM proposed to require you to replace any affected ADC with one that has a reprogrammed and tested CPU circuit card and circuit card assembly.

Was the Public Invited to Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comment received on the proposal and FAA's response to the comment:

Comment Issue: Remove Saab Model 340 from the Applicable Airplane Model List

What Is the Commenter's Concern?

A commenter states that, even though fitted with the subject ADC, the Saab 340 is not designed with the ability to use alternate static sources.

What Is FAA's Response to the Concern?

We concur that the airplane is not designed with the ability to use alternate static sources. Therefore, we are removing the Saab 340 from the applicable airplane model list.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the supplemental NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the supplemental NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects more than 329 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/operators of the Affected Airplanes?

We estimate the following costs to accomplish the removal, installation, reprogramming, and testing of the ADC in each airplane:

Labor cost	Parts cost	Total cost per airplane
6 workhours × $60 per hour = $360	$680	$1040

For units that are still under warranty, Rockwell Collins will provide the parts and labor at no charge.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–14–19 Rockwell Collins, Inc.: Amendment 39–12819; Docket No. 2000–CE–14–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following Rockwell Collins air data computers (ADC) that are installed in, but not limited to the airplanes that are listed below:

(1) Affected ADC's:

Unit	Collins part no. (CPN)	Applicable to serial no.
ADC–85 (Incorporating Rockwell Collins Service Bulletin No. 58)	622–8051–002 622–8051–003	All units.
ADC–85A (Incorporating Rockwell Collins Service Bulletin No. 58)	822–0370–113 822–0370–123 822–0370–139 822–0370–404 822–0370–408	All units.
ADC–850D (Incorporating Rockwell Collins Service Bulletin No. 58)	822–0389–133	All up to and including 3DGW (except for 1P6D, 22RC–22RF, and 23WK–3DGP).
ADC–850F	822–1036–406 822–1036–418	All Units.

(2) List of airplanes where the affected ADC could be installed. This is not a comprehensive list and airplanes not on this list that have the ADC installed through field approval or other methods are still affected by this AD:

Unit	Airplane model
ADC–85/ADC–85A	Astra AIA. Chinese Y7 and Y8. Czech LET–610. DC–8. Falcon 20F. Piaggio P–180. Raytheon B200, B300, C90A and 1900D.
ADC–850D	Lear 60.
ADC–850F	Falcon 20, 50, and 50EX.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane that uses one of the above referenced Rockwell Collins air data computers must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent an unwarranted display of the ADC flag when switching static air sources. This could cause the flight crew to react to this incorrect flight information and possibly result in an unsafe operating condition.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Perform the following, unless already accomplished: (i) Remove any affected ADC from the airplanes. (ii) As applicable, replace or reprogram parts or circuit card assemblies on central processing unit (CPU) circuit cards. (iii) Test the ADC. (iv) Install the modified ADC in the airplanes.	Within the next 12 calendar months after August 23, 2002 (the effective date of this AD).	In accordance with Rockwell Collins Service Bulletin No. 62, Revision No. 2, ADC–85/85A/850C/850D/850E/850F–34–62), Revision No. 2, dated March 7, 2000, or Service Bulletin No. 62, dated October 25, 1999, as applicable, the applicable Collins Computer Component Maintenance Manual, and Collins Avionics Standard Shop Practices Instruction Manual.
(2) Do not install on any airplane one of the affected ADCs unless the modification and test required by paragraphs (d)(1)(ii) and (d)(1)(iii) of this AD are accomplished	As of August 23, 2002 (the Service date of this AD).	In accordance with Rockwell Collins Service Bulletin No. 62, Revision No. 2, ADC–85/85A/850C/850D/850E/850F–34–62, dated March 7, 2000, or Service Bulletin No. 62, dated October 25, 1999, as applicable.

Note 1: Rockwell Collins Operator Bulletin 99–7, dated August 1999, contains information about an operational placard to install until accomplishment of the actions of this AD. While not necessary to address the unsafe condition in this AD, FAA highly recommends that you incorporate this placard.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407, E-mail: *Roger.Souter@faa.gov*.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Rockwell Collins Service Bulletin No. 62, Revision No. 2, ADC–85/85A/850C/850D/850E/850F–34–62, dated March 7, 2000, or Rockwell Collins Service Bulletin No. 62, ADC–85/85A/850C/850F–34–62, dated October 25, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Rockwell Collins, Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective ?* This amendment becomes effective on August 23, 2002.

Issued in Kansas City, Missouri, on July 3, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17306 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–018]

RIN No. 1218–AB88

Safety Standards for Signs, Signals, and Barricades

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to significant adverse comments, OSHA is withdrawing the direct final rule for Signs, Signals, and Barricades that was published on April 15, 2002. In the document, OSHA stated that if it received significant adverse comments, the agency would ''publish a notice of significant adverse comment in the **Federal Register** withdrawing this direct final rule * * *'' Two of the eight comments received will, in this instance, be treated as significant adverse comments. OSHA published a companion proposed rule identical to the direct final rule on the same day. [67 FR 18145]. The agency will address comments on the direct final and proposed rules in a new final rule. OSHA will not institute a second comment period.

DATES: The direct final rule for Signs, Signals, and Barricades published on April 15, 2002 [67 FR 18091] is withdrawn as of July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy Ford, Office of Construction Standards and Construction Services,

Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2345.

Authority: This document was prepared under the direction of John Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 4 of the Administrative Procedure Act (5 U.S.C. 553), Section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 29 CFR Part 1911.

Signed at Washington, DC, this 11th day of July, 2002.

John Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–17851 Filed 7–12–02; 8:45 am]

BILLING CODE 4510–26–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in August 2002. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

EFFECTIVE DATE: August 1, 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during August 2002, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during August 2002, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during August 2002.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to Part 4044) will be 5.50 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for July 2002) of 0.20 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to Part 4022) will be 4.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for July 2002) of 0.25 percent for the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to Part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during August 2002, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 106, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
106	8–1–02	9–1–02	4.25	4.00	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 106, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
106	8–1–02	9–1–02	4.25	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
August 2002	.0550	1–25	.0425	>25	N/A	N/A

Issued in Washington, DC, on this 9th day of July 2002.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 02–17641 Filed 7–12–02; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[NM–042–FOR]

New Mexico Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving a proposed amendment to the New Mexico regulatory program (the ''New Mexico program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). New Mexico proposed revisions to and additions of rules about definitions, general environmental resource information, operations that may have an adverse impact on publicly owned parks or places listed on the National Register of Historic Places, bond release applications, termination of jurisdiction, prime farmland reclamation, inspection frequency of abandoned sites, hearings for charges of violation, the qualifying criteria for assistance under the small operator's program, areas where mining is prohibited or limited, criteria for designating areas unsuitable for surface coal mining, applications for and approval of coal exploration operations of more than 250 tons, criteria for permit approval or denial, application and approval criteria for demonstrating valid existing rights, the one square mile criterion in the definition of intermittent streams, and miscellaneous non-substantive editorial revisions. New Mexico revised its program to be consistent with the corresponding Federal regulations, provide additional safeguards, and clarify ambiguities.

EFFECTIVE DATE: July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Willis L. Gainer, Telephone: (505) 248–5096, Internet address: *wgainer@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act* * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C.

1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the New Mexico program on December 31, 1980. You can find background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 31, 1980, **Federal Register** (45 FR 86459). You can also find later actions concerning New Mexico's program and program amendments at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Submission of the Proposed Amendment

By letter dated November 28, 2001, New Mexico sent us an amendment to its program (Administrative Record No. NM–853) under SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico sent the amendment in response to June 19, 1997, and April 2, 2001 letters (Administrative Record Nos. NM–796 and NM–851) that we sent to New Mexico in accordance with 30 CFR 732.17(c); in response to the required program amendments at 30 CFR 931.16(e), (u) and (v); and to include the changes made at its own initiative.

We announced receipt of the proposed amendment in the January 9, 2002, **Federal Register** (67 FR 1173). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. NM–857). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on February 8, 2002. We received comments from two Federal agencies.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

A. Minor Revisions to New Mexico's Rules

New Mexico proposed minor wording, editorial, punctuation and/or grammatical changes to the following previously-approved rules.

19.8.1 through 19.8.34 New Mexico Annotated Code (NMAC) (no corresponding Federal regulation or SMCRA provision), administrative code citations;

19.8.8.802.A NMAC (30 CFR 780.21(c)), general requirements for description of hydrology and geology;

19.8.13.1307 NMAC (30 CFR 774.17(b)(3)), requirement to obtain a bond;

19.8.19.1900.A, C and C(2) NMAC (30 CFR 772.11(a), 772.12, and 772.13(a)); requirements concerning coal exploration; and

19.8.20.2009.E and E(5) NMAC (30 CFR 780.21(c)), general requirements for the hydrologic balance.

Because these changes are minor, we find that they will not make New Mexico's rules less effective than the corresponding Federal regulations.

B. Revisions to New Mexico's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

New Mexico proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations.

19.8.1.7.O(5) NMAC (30 CFR 701.5), definition of ''other treatment facilities;''

19.8.1.7.P(12) NMAC (30 CFR 701.5), definition of ''previously mined area;''

19.8.1.7.Q(1) NMAC (30 CFR 701.5), definition of ''qualified laboratory;''

19.8.2.201 NMAC (30 CFR 761.11), areas where surface coal mining operations are prohibited;

19.8.2.202.A and B(1), (2) and (3), and (C) NMAC (30 CFR 761.17(a) and (b)(1), (2) and (3), and (C)), regulatory authority obligations at the time of permit application review;

19.8.2.202.E NMAC (30 CFR 761.15), procedures for waiving the prohibition on surface coal mining operations within the buffer zone of an occupied dwelling;

19.8.2.202.F NMAC (30 CFR 761.17(b)(4) and (d)(1) through (3)), procedures for joint approval of surface coal mining operations that will adversely affect publicly owned parks or historic places;

19.8.2.202.G NMAC (30 CFR 761.13(c)), procedures for compatibility findings concerning surface coal mining operations on Federal lands in national forests;

19.8.2.202.H and 19.8.3.300.C NMAC (30 CFR 762.14), applicability of petitions for lands designated unsuitable for mining to areas where surface coal mining operations are prohibited or limited;

19.8.2.203 NMAC (30 CFR 761.12), exceptions to rules concerning areas where surface coal mining operations are prohibited;

19.8.6.602.A and 603 NAMC (30 CFR 772.12), permit requirements for exploration;

19.8.7.704.C NMAC (30 CFR 778.16), proposed permit area location with respect to areas designated unsuitable for mining;

19.8.8.801.B NMAC (30 CFR 779.12), general environmental resources information for cultural and historic resources;

19.8.9.912.A and B NMAC (30 CFR 780.31), protection of public parks and historic places;

19.8.11.1106.D NMAC (30 CFR 773.15), criteria for permit approval or denial;

19.8.14.1412.A NMAC (30 CFR 800.40(a)(3)), bond release application requirements;

19.8.14.1415.A NMAC (30 CFR 700.11(d)), termination of jurisdiction;

19.8.20.2057.A and 19.8.20.2058.A NMAC (30 CFR 816.104(a), 816.105(a), 817.104(a), and 817.105(a)), definitions of ''thin overburden'' and ''thick overburden;'

19.8.24.2400.C NMAC (30 CFR 785.17(e)(5)), prime farmland performance standard;

19.8.29.2900.G NMAC (30 CFR 840.11(g)), definition of ''abandoned site;''

19.8.31.3107.A NMAC (30 CFR 845.19(a)), request for an administrative review hearing concerning assessed civil penalties; and

19.8.32.3200.B, 19.8.32.3203.A and B(1) through (6), and 19.8.32.3206.A NMAC (30 CFR 795.6(a)(2)(i) and (ii), 795.9(a) and (b)(1) through (6), and 795.12(a), (a)(2) and (a)(3)), eligibility for the small operator assistance program (SOAP), SOAP services and data requirements, and SOAP applicant liability.

19.8.35.7.A, B, C, and D NMAC (30 CFR 761.5 and 761.5(a), (b) and (c)), definition of ''valid existing rights'' (VER); and

19.8.35.8.A and B NMAC; 19.8.35.9.A, B, C, and D NMAC; 19.8.35.10A, B, C, and D NMAC; 19.8.35.11.A, B, and C NMAC; 19.8.35.12.A, B, C, D, and E NMAC; 19.8.35.13 NMAC; and 19.8.35.14 NMAC (30 CFR 761.16(a), (b), (c), (d), (e), (f), and (g)), submission and processing of requests for VER.

Because these proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations.

C. Revisions to New Mexico's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

1. 19.8.1.7.F(5) and N(2) NMAC, Definitions of ''Fixed Assets'' and ''Net Worth.''

At 19.8.1.7.F(5) and N(2) NMAC, New Mexico proposed to revise the definitions of, respectively, (1) ''fixed assets'' to mean plants, facilities and equipment, not used for the production, transportation or processing of coal, and

does not include land or coal in place and (2) ''net worth'' to mean the total assets minus total liabilities and is equivalent to owner's equity, and, for the purposes of 19.8.14.1410.A(3)(b) NMAC, plants, facilities and equipment used for the production, transportation or processing of coal, and land or coal in place shall not be considered assets in a calculation of net worth.

At 30 CFR 800.23(a) and (b), the counterpart Federal regulations define, respectively, (1) ''fixed assets'' to mean plants and equipment but does not include land or coal in place and (2) ''net worth'' to mean total assets minus total liabilities and is equivalent to owner's equity.

New Mexico's proposed definition of ''fixed assets'' requires an applicant for self-bonding to reduce the value of its fixed assets by eliminating plants, facilities and equipment used for the production, transportation or processing of coal from the calculation of fixed assets. Similarly, New Mexico's proposed definition of ''net worth'' requires an applicant, that bases its qualification for self-bonding on the financial tests at 19.8.14.1410.A (3)(b) NMAC, to remove the value of assets such as plants, facilities and equipment used for the production, transportation or processing of coal from its calculation of net worth. These provisions are not included in the counterpart Federal definitions.

Self-bonds are not based upon the permittee's assignment or pledge of assets. Therefore, a regulatory authority relies on the financial tests to indicate whether the liquidity and solvency levels of a self-bonding applicant are sufficient for the applicant to perform its reclamation obligations without separate surety. Plants, facilities and equipment used for coal mining are likely to be more temporary in nature and likely to be removed or demolished following mining as part of the approved reclamation plan. New Mexico's proposed revisions of the definitions of ''fixed assets'' and ''net worth'' require a self-bonding applicant to rely on the value of more permanent assets not related to its mining operation.

With these proposed revisions, New Mexico has proposed to provide additional protection from the risk of forfeiture of a self-bond than is afforded in the Federal regulations. In its preamble to the final self-bonding regulations (48 FR 36418, August 10, 1983), OSM indicated that some balance sheet items were defined by using standard accounting definitions; others were altered to provide more protection and less risk to the regulatory authority. OSM further stated that in its definition of fixed assets—

> Unimproved land will not be allowed in the fixed assets calculations because values are often unreliable. Coal in place is not easily liquidated and its value depends on mining and market conditions; therefore, it is not included.

New Mexico's proposal to eliminate assets used for coal mining is consistent with the Federal regulations at 30 CFR 800.23(a) concerning self-bonding that eliminate the use of assets whose values are unreliable and not easily liquidated.

Therefore, the Director finds that New Mexico's proposed definitions at 19.8.1.7.F(5) and N(2) NMAC are no less stringent than SMCRA and no less effective than the counterpart Federal regulations at 30 CFR 800.23(a) and approves them.

2. 19.8.1.7.I(7) NMAC, Definition of ''Intermittent Stream,'' New Mexico's Response to Required Amendments at 30 CFR 931.16(e), (u) and (v).

New Mexico's existing rule at 19.8.1.7.I(7) NMAC defines ''intermittent stream'' to mean ''a stream or reach of stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.''

OSM, at 30 CFR 701.5, defines ''intermittent stream'' to mean (a) a stream or reach of stream that drains a watershed of at least one square mile, or (b) a stream or reach of stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

OSM required at 30 CFR 931.16(e), (u) and (v) that New Mexico revise its definition of ''intermittent stream,'' at 19.8.1.7.I(7) NMAC, to include any watershed that drains more than one square mile or otherwise revise its rules, concerning streams that drain watersheds one square mile or greater in area and that flow only in direct response to surface runoff from precipitation or melting snow or ice, to be no less effective than the Federal regulations concerning permit application requirements and performance standards involving diversions, roads and stream protection. (See findings nos. 7(a), 20(d), and 21; 58 FR 65907, December 17, 1993; Administrative Record No. NM–706.)

New Mexico responded by explaining why, based on regional conditions and historical experience, it would be inappropriate to include any watershed draining one-square mile in its definition of ''intermittent stream'' and why the existing New Mexico program provides protection for roads and streams involving watersheds one square mile or greater in area that flow only in direct response to surface runoff from precipitation or melting snow or ice that is no less effective than the Federal program. New Mexico pointed out that the inclusion of the one square mile watershed criteria in its definition of ''intermittent stream'' would, in effect, cause thousands of normally dry ephemeral arroyos in New Mexico to arbitrarily be classified as intermittent streams. Furthermore, New Mexico stated—

> [t]here has been no historic or scientific justification in the last twenty years of New Mexico's regulatory program to impose the higher standards of protection associated with the higher flows of truly intermittent and perennial streams to the normally dry arroyos of New Mexico.

OSM adopted its definition of ''intermittent stream'' along with definitions of perennial and ephemeral streams in the original 1979 permanent program regulations (44 FR 14932, March 13, 1979). OSM stated these terms were adopted to distinguish continuously or nearly continuously flowing streams from ephemeral streams, because different regulatory controls were needed to protect these two categories. A one-mile watershed concept in part (a) of the Federal definition of ''intermittent stream'' was adopted because at least two states (Alabama, Illinois) found it easy to administer and apply. OSM also stated that, even for arid regions, a stream draining that much land has the potential for flood volumes that would necessitate application of more stringent stream channel diversion criteria (*i.e.,* those applicable to intermittent streams rather than ephemeral streams). The term ''intermittent stream'' comes into play in the Federal regulations governing diversions at 30 CFR 816.43, stream buffer zones at 30 CFR 816.57 and roads at 30 CFR 816.150 and 151.

Under the Federal regulations at 30 CFR 816.43, concerning diversions, intermittent streams may be diverted but must comply with findings for stream buffer zones and the diverted channel must be designed and certified by a professional engineer for a 10-year, 6-hour storm event for temporary and 100-year, 6-hour storm events for permanent diversions. In the Federal regulations, diversions of ephemeral streams must be designed for 2-year, 6-hour storms for temporary and 10-year, 6-hour storms for permanent diversions.

Under the Federal regulations at 30 CFR 816.57, concerning stream buffer zones, no land within 100 feet of an intermittent stream shall be disturbed

unless the regulatory authority specifically authorizes surface mining activities closer to or through such a stream. The regulatory authority may authorize such activities only after finding that surface mining activities will not cause or contribute to the violation of applicable water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream. The stream buffer limitations do not apply to ephemeral streams.

Under the Federal regulations at 30 CFR 816.150(a), concerning all roads, no part of any road shall be located in the channel of an intermittent stream unless specific approval is granted by the regulatory authority in accordance with 30 CFR 816.41 through 30 CFR 816.43 and 30 CFR 816.57. Under the Federal regulations at 30 CFR 816.151, concerning primary roads, fords of intermittent streams are prohibited unless specifically approved by the regulatory authority as temporary routes during periods of road construction. These limitations on roads do not apply to ephemeral streams.

New Mexico specifically addressed these regulatory ramifications concerning ephemeral streams draining areas greater than one square mile with the following discussion in support of the effectiveness of its existing program:

Performance Standards Regarding Diversion Designs. The [New Mexico] regulations for diversions of ephemeral streams already require that the diversions be designed, constructed and maintained to minimize adverse impacts to the hydrologic balance within the permit and adjacent areas and prevent material damage outside the permit area and to assure the safety of the public.

Temporary clear water diversions of ephemeral streams must be designed to safely pass the peak runoff from a 2-year, 24-hour event and temporary diversions of any disturbed area or permanent diversions the 10-year, 24-hour event. These design standards take into account the exact watershed in question as well as the predicted rainfall amounts and intensity of the area. Therefore, a *site specific* calculation must be done for ephemeral stream channel diversion that would take into account the possibility of ''flash flooding''.

Diversions of ephemeral streams must also be designed, constructed, and maintained in a manner which prevents additional contributions of suspended solids to stream flow and to run-off outside the permit area, to the extent possible *using the best technology currently available.*

Therefore, diversion designs of ephemeral streams must already use site-specific designs which take into account the local watershed and rainfall conditions; use the best technology currently available; protect against material damage both on and off-site; and, minimize impact to the hydrologic balance.

The higher standards imposed on diversions of intermittent and perennial streams are to provide a greater degree of safety and environmental protection for the higher flows associated with those types of streams. There has been no historical or scientific justification to impose these higher standards on normally dry, ephemeral arroyos in New Mexico.

Performance Standards Regarding Road Crossings. Because of the nature of ephemeral steams (dry arroyos) in New Mexico, the protection of stream habitat in arroyos is not an issue. Therefore, the disallowance of stream fords of arroyos with a watershed of more than one square mile is not appropriate.

Performance Standards Regarding Stream Buffer Zones. Again, the higher standards imposed on mining disturbances within 100′ of a perennial or intermittent stream are to provide a greater degree of protection for the higher flows, moisture and stream habitat associated with intermittent and perennial streams. Imposing this same standard to normally dry, ephemeral arroyos is not necessary or appropriate in New Mexico.

New Mexico noted that the existing New Mexico program requires that all structures (*e.g.,* diversions and low water crossings) treating *disturbed area* (emphasis added) runoff must be designed, at a minimum, to safely pass the 10-year, 24-hour storm event. This requirement does not exist in the Federal program, and is more stringent than the Federal regulations with respect to temporary diversions of ephemeral streams, which require that temporary structures be designed to safely pass the 2-year, 6-hour storm event. In New Mexico, only temporary clear water diversions of ephemeral drainages would be designed using the minimum 2-year, 24-hour storm event.

In addition, New Mexico stressed that the existing implementation of its design rules for all structures errs on the conservative side because the analysis of a watershed (1) includes high curve runoff numbers based on soil types and a lack of vegetation and (2) assumes that rain falls evenly over the entire watershed. It is the nature of storm events in New Mexico that rain is highly localized and rarely if ever falls over an entire watershed. These aspects of watershed analysis in New Mexico result in structures designed to handle more water than would be anticipated to actually ever result from a design storm event. Therefore, should a flash flood occur in one part of the watershed, New Mexico asserts that the diversion or road crossing designed for ephemeral streams draining larger than one square mile will include the capacity to handle the more localized event.

New Mexico provided examples of approved diversions and road crossings designed under the existing rules for ephemeral streams draining areas larger than one square mile. These examples are from three of the five active mining operations in New Mexico. Because of topographic conditions in New Mexico where the other two approved mining operations exist, there are no ephemeral streams draining a watershed that is greater than one square mile. Three of these five examples have been in place for 15, 16, and 22 years; the other two have been in place 2 and 3 years. These structures involve ephemeral drainages with watersheds ranging in area from 2.3 to 121.7 square miles.

Specifically, New Mexico approved: (1) In 2000, a low water road crossing for an ephemeral stream that drains a watershed of 121.7 square miles; (2) in 1999, a temporary diversion for a ephemeral stream that drains a watershed of 2.3 square miles; (3) in 1987, a diversion for an ephemeral stream that drains a watershed of 16 square miles; (4) in 1986, a diversion for an ephemeral stream that drains a watershed of 7.2 square miles; and (5) in 1980, a diversion for an ephemeral stream that drains a watershed of 121.7 square miles. In the history of these examples, New Mexico has never observed problems in the field. New Mexico offered these examples as evidence that its exiting program provides for adequate protection for structures involving ephemeral streams that drain more than one square mile and flow only in direct response to surface runoff from precipitation or melting snow or ice.

Based on the above discussion, OSM finds that New Mexico has addressed all programmatic ramifications concerning the protection of ephemeral streams draining areas greater than one square mile, and, in doing so, has demonstrated, through rationale and field examples, that its existing program rules are no less effective than the Federal program in providing for protection of ephemeral streams draining an area of more than one square mile. Therefore, the Director no longer requires revision of New Mexico's definition of ''intermittent stream'' at 19.8.1.7.I(7) NMAC to include streams draining an area greater than one square mile and is removing the required amendments at 30 CFR 931.16(e), (u) and (v).

3. 19.8.2.202.D NMAC, Procedures for Relocating or Closing a Public Road or Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of a Public Road.

Both New Mexico's proposed rules at 19.8.2.202.D NMAC and the counterpart Federal regulations at 30 CFR 716.14 require that an applicant must obtain any necessary approvals from the authority with jurisdiction over the road if the applicant proposes to: (1) Relocate a public road, (2) close a public road, or (3) conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road.

The Federal regulation at 30 CFR 761.14(c) requires that, before approving one of the above exceptions to the prohibitions placed on mining near public roads, the regulatory authority, or the public road authority that it designates, must determine that the interests of the public and affected landowners will be protected. The Federal regulations state that before making this determination, the authority must: (1) Provide a public comment period and opportunity to request a public hearing in the locality of the proposed operation; (2) if a public hearing is requested, publish appropriate advance notice at least two weeks before the hearing in a newspaper of general circulation in the affected locality; and (3) based upon information received from the public, make a written finding as to whether the interests of the public and affected landowners will be protected. If a hearing was held, the authority must make this finding within 30 days after the hearing.

New Mexico proposed at 19.8.2.202.D NMAC that, where the proposed mining operation is to be conducted within 100 feet measured horizontally of the outside right-of-way line of any public road (except where mine access roads or haulage roads join such right-of-way line) or where the applicant proposes to relocate or close any public road, the Director (of the New Mexico program) shall: (1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road; (2) provide notice in a newspaper of general circulation in the affected locale of a public hearing at least 2 weeks before the hearing; (3) hold a public hearing in the locality of the proposed mining operations where any member of the public may participate for the purpose of determining whether the interests of the public and affected landowners will be protected; and (4) make a written finding based upon information received at the public hearing within 30 days after completion of the hearing as to whether the interests of the public and affected landowners will be protected from the proposed mining operations.

New Mexico's rules are the same as the Federal regulations with one exception. New Mexico, instead of requiring a public comment period during which a hearing may be requested, has elected to always require a public hearing as a means of determining whether the interests of the public and affected landowners will be protected. The counterpart Federal regulations only require a public hearing if requested during a public comment period. New Mexico, in always providing for a public hearing, has afforded a greater opportunity for public input than do the Federal regulations.

The Director finds that New Mexico's proposed rules at 19.8.2.202.D NMAC are consistent with and no less effective than the Federal regulations at 30 CFR 716.14 and approves them.

4. 19.8.29.2900.H NMAC, Inspection Frequency at Abandoned Mines

New Mexico proposed rules at 19.8.29.2900.H NMAC concerning the frequency of inspection at abandoned coal mines. With one exception, New Mexico's proposed rules are identical to the counterpart Federal regulations at 30 CFR 840.11(h).

New Mexico's proposed 19.8.29.2900.H NMAC provides for a minimum inspection frequency of one complete inspection per quarter at abandoned sites. The counterpart Federal regulations at 30 CFR 840.11(h) provide for a minimum inspection frequency of one complete inspection per year. New Mexico's proposed rules eliminate the requirement for the partial inspections at abandoned sites that are required for active coal mine operations, as do the counterpart Federal regulations. However, New Mexico's proposed minimum inspection frequency of one complete inspection per quarter is greater than and more stringent than that provided for in the Federal regulations. A greater inspection frequency may result in greater environmental protection at the abandoned site in that field conditions would be assessed more frequently.

Therefore, the Director finds that New Mexico's proposed rules at 19.8.29.2900.H NMAC are no less effective than the Federal regulations at 30 CFR 840.11(h) and approves them.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record No. NM–854), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the New Mexico program (Administrative Record No. NM–854).

By letter dated December 17, 2001 (Administrative Record No. NM–855), the Bureau of Land Management (BLM) responded with the following comments. BLM requested clarification of New Mexico's proposed rules at (1) 19.8.2.201 NMAC, concerning areas where surface coal mining operations are prohibited, and (2) 19.8.24.2400.C NMAC, concerning prime farmland.

Areas where surface coal mining operations are prohibited. New Mexico's proposed rule at 19.8.2.201 NMAC is substantively identical to the Federal regulation at 30 CFR 761.11. Both identify specific locations where surface coal mining operations are prohibited, subject to valid existing rights (VER), with possible exceptions. Features protected include public and National Parks, wildlife refuges, public roads, occupied dwellings, schools, churches and cemeteries.

BLM asked whether mining would be prohibited or allowed on the areas in question if a cultural feature were created after the coal lease was issued, or after the operation began on the lease or logical mining unit.

When a mining operation began is directly relevant to whether resource protection under 30 CFR 761.11 and 19.8.2.201 NMAC is exempted. Whether the coal lease was issued may be relevant to a determination of VER. Below is an explanation of the proposed New Mexico rules that would determine when mining would be prohibited.

OSM's Federal regulations at 30 CFR 761.12 and New Mexico's proposed rules at 19.8.2.203 NMAC exempt the prohibitions of 30 CFR 761.11 and 19.8.2.201 NMAC (1) concerning surface coal mining operations with a valid permit that existed when the land came under the protection of 30 CFR 761.11 or 19.8.2.201 NMAC and (2) with respect to operations existing prior to August 3, 1977, lands upon which validly authorized surface coal mining operations existed when the land came under the protection of the Federal

regulations at 30 CFR 761.11 or the New Mexico rules at 19.8.2.201 NMAC.

Where these exemptions do not apply, the prohibitions may be waived if the applicant can demonstrate VER as defined by New Mexico at proposed rules 19.8.35.7.A through D NMAC and in the Federal regulations at 30 CFR 761.5(a), (b) and (c).

OSM's definition of VER (New Mexico's definition is identical to OSM's definition) provides for a person claiming VER to demonstrate that a legally binding conveyance, lease, deed, contract, or other document vests that person, or a predecessor in interest, with the right to conduct the type of surface coal mining operations intended. This right must exist at the time that the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e). Applicable State statutory or case law will govern interpretation of documents relied upon to establish property rights, unless Federal law provides otherwise. If no applicable State law exists, custom and generally accepted usage at the time and place that the documents came into existence will govern their interpretation. However, a person claiming VER must also demonstrate compliance with one of the following standards: (1) All permits and other authorizations required to conduct surface coal mining operations must have been obtained, or a good faith effort to obtain all necessary permits and authorizations must have been made, before the land came under the protection of Sec. 761.11 or 30 U.S.C. 1272(e). At a minimum, an application must have been submitted for any permit required under the Federal regulations or a counterpart State program; (2) the land is needed for and immediately adjacent to a surface coal mining operation for which all permits and other authorizations required to conduct surface coal mining operations have been obtained, or a good faith attempt to obtain all permits and authorizations has been made, before the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e). To meet this standard, a person must demonstrate that prohibiting expansion of the operation onto that land would unfairly impact the viability of the operation as originally planned before the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e). Except for operations in existence before August 3, 1977, or for which a good faith effort to obtain all necessary permits had been made before August 3, 1977, this standard does not apply to lands already under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e) when the regulatory authority approved the permit for the original operation or when the good faith effort to obtain all necessary permits for the original operation was made. In evaluating whether a person meets this standard, the agency making the determination may consider factors such as: (i) The extent to which coal supply contracts or other legal and business commitments that predate the time that the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e) depend upon use of that land for surface coal mining operations. (ii) The extent to which plans used to obtain financing for the operation before the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e) rely upon use of that land for surface coal mining operations. (iii) The extent to which investments in the operation before the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e) rely upon use of that land for surface coal mining operations. (iv) Whether the land lies within the area identified on the life-of-mine map submitted under 30 CFR 779.24(c) or 30 CFR 783.24(c) before the land came under the protection of 30 CFR 761.11.

Furthermore, a person who claims VER to use or construct a road across the surface of lands protected by 30 CFR 761.11 or 30 U.S.C. 1272(e) must demonstrate that one or more of the following circumstances exist if the road is included within the definition of ''surface coal mining operations'' in 30 CFR 700.5: (1) The road existed when the land upon which it is located came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e), and the person has a legal right to use the road for surface coal mining operations. (2) A properly recorded right of way or easement for a road in that location existed when the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e), and, under the document creating the right of way or easement, and under subsequent conveyances, the person has a legal right to use or construct a road across the right of way or easement for surface coal mining operations. (3) A valid permit for use or construction of a road in that location for surface coal mining operations existed when the land came under the protection of 30 CFR 761.11 or 30 U.S.C. 1272(e). (4) VER exist under paragraphs (a) and (b) of the definition.

Because New Mexico's proposed rules at 19.8.2.201 NMAC are substantively identical to the Federal regulations at 30 CFR 761.11, the Director, as discussed in Finding No. III.B above, is approving them. The Director is not requiring that New Mexico take any action in response to BLM's comments.

Prime Farmlands. New Mexico's proposed rule 19.8.24.2400.C NMAC is identical to the Federal regulation at 30 CFR 785.17(e)(5) and requires that—

> the aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area. The creation of any such water bodies must be approved by the regulatory authority and the consent of all affected property owners within the permit area must be obtained.

BLM questioned (1) whether the proposed rule meant that soil and growth medium (which we construed to be prime farmland soils) would not be covered by any planned water body, (2) how far removed must any water body be located (i.e., would there be a required zone between the prime farmland and the water body or could prime farmland surround a water body) and (3) can prime farmland be relocated in the reclamation process?

OSM promulgated the Federal regulation at 30 CFR 785.17(e)(5) on October 18, 1988; see the preamble discussion at II.A, 53 FR 40828, 40829—40835. In this discussion OSM asserted that the relocation of prime farmland soils within the permit is authorized. The only limitation is that the applicant must demonstrate that there will be no decrease in the acreage of prime farmland soils and the productivity capacity of reconstructed prime farmland will be maintained. OSM clarified that where non-prime farmland areas are found on the permit areas, these areas may be subjected to land use changes, including the creation of water bodies, provided that the alternative post-mining land use requirements of the regulations are met.

OSM stated that prime farmland soils removed for water bodies must be removed, segregated, and stockpiled, but not replaced within the impoundment. These soils are to be reconstructed in the same way other prime farmland soils are reconstructed within the permit area and with the review and concurrence of the Nation Resource Conservation Service (NRCS, old Soil Conservation Service). OSM also stated that prime farmland soils may not be moved from a pre-mining location to a post-mining location within a permit area if the pre-mining area would not normally be disturbed in order to extract the coal, and, when the shifting of the location of prime farmland soils is part of a complete mining and reclamation plan, such soil relocation will be kept to a minimum, will be reviewed and concurred in by

the NRCS and must still meet the prime farmland soil reconstruction and bond release standards.

OSM did not discuss the location of the water body with respect to prime farmland soils. The plain language of New Mexico's rule and the Federal regulation requires that the water body be within the post-reclamation non-prime farmland portions of the permit area. Therefore, it could not be within the post-reclamation prime farmland portions of the permit area. The location of the water body with respect to the location of the prime farmland soils would be predicated by the requirement that the applicant demonstrate that the productivity of the prime farmland soils would be maintained. We also note that protection of all non-prime farmland topsoil is required and it would not be placed beneath a reclaimed water body.

Because New Mexico's proposed rules at 19.8.24.2400.C NMAC are substantively identical to the Federal regulations at 785.17(e)(5), the Director, as discussed in Finding No. III.B above, is approving them. The Director is not requiring that New Mexico take any action in response to BLM's comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that New Mexico proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (Administrative Record No. NM–854). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On December 10, 2001, we requested comments on New Mexico's amendment (Administrative Record No. NM–854). ACHP did not respond to our request.

The SHPO responded with a letter dated January 10, 2002 (Administrative Record No. NM–856), with the following comment concerning New Mexico's proposed rule at 19.8.9.912.A NMAC.

New Mexico's proposed 19.8.9.912.A NMAC requires that an applicant for a proposed operation that may have an adverse effect on any publicly owned parks or any places listed on the National Register of Historic Places shall include a plan describing the measures to be used to prevent adverse impacts, or designed to minimize adverse impacts when valid existing rights exist or joint agency approval is to be obtained under 19.8.2.202.E NMAC.

SHPO recommended that New Mexico's proposed rule at 19.8.9.912.A NMAC include a reference to the State Register of Cultural Properties to ensure adequate protection to properties listed only on the State Register and not listed on the National Register.

Properties on the State Register of Cultural Properties include properties that are listed on the National Register of Historic Places, are in the process of being listed on the national register, and would likely be eligible for listing on the National Register of Historic Places. Properties that would be eligible for listing on the National Register of Historic Places would be protected under proposed 19.8.9.912.B NMAC. New Mexico's rule at 19.8.9.912.B NMAC provides that the Director of the New Mexico program may require the applicant to protect historic or archeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance provided that the required measures are completed before the properties are affected by any mining operation.

Proposed 19.8.9.912.A and B NMAC are identical to the Federal regulations at 30 CFR 780.31(a) and (b). The Federal regulations and New Mexico's proposed rules do provide for more stringent protection of public parks and places listed on the National Register of Historic Places. However, applications that may impact cultural and historic resources are sent by the Director of the New Mexico program to the SHPO for review and comment. New Mexico would take seriously all recommendations from the SHPO and would likely, under 19.8.9.912B NMAC, require mitigation of any adverse impacts.

Because OSM cannot require that New Mexico promulgate rules that are more stringent than the Federal regulations, the Director, as discussed in Finding No. III.B above, is approving New Mexico's proposed rules. The Director is not requiring that New Mexico take action in response to this comment.

V. OSM's Decision

Based on the above findings, we approve New Mexico's November 28, 2001, amendment.

To implement this decision, we are amending the Federal regulations at 30 CFR part 931, which codify decisions concerning the New Mexico program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state

governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: a. does not have an annual effect on the economy of $100 million; b. will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and c. does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on state, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 3, 2002.

Brent T. Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR 931 is amended as set forth below:

PART 931—NEW MEXICO

1. The authority citation for part 931 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 931.15 is amended in the table by adding a new entry in chronological order by July 15, 2002, to read as follows:

§ 931.15 Approval of New Mexico regulatory program amendments

* * * * *

Original submission date	Date of final publication	Citation/description
*	*	* * * * *
November 28, 2001	July 15, 2002	19.8.1.7.F(5); 19.8.1.7N(2); 19.8.1.7.O(5); 19.8.1.7.P(12); 19.8.1.7.Q(1); 19.8.2.201; 19.8.2.202.A through H; 19.8.2.203; 19.8.3.300.C; 19.8.6.602.A and 603; 19.8.7.704.C; 19.8.8.801.B; 19.8.8.802.A; 19.8.9.912.A and B; 19.8.11.1106.D; 19.8.13.1307; 19.8.14.1412.A; 19.8.14.1415.A; 19.8.19.1900.A, C and C(2); 19.8.20.2009.E and E(5); 19.8.20.2057.A; 19.8.20.2058.A; 19.8.24.2400.C; 19.8.29.2900.G and H; 19.8.31.3107.A; 19.8.32.3200.B; 19.8.32.3203.A and B; 19.8.32.3206.A; and 19.8.35.7 through 14 NMAC.

§ 931.16 [Amended]

3. Section 931.16 is amended by removing and reserving paragraphs (e), (u) and (v).

[FR Doc. 02–17651 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–011]

RIN 2115–AA97

Security Zones; Captain of the Port Toledo Zone, Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing two permanent security zones on the navigable waters of Lake Erie in the Captain of the Port Toledo Zone. These security zones are necessary to protect the Enrico Fermi 2 Nuclear Power Station and the Davis Besse Nuclear Power Station from possible acts of terrorism. These security zones are intended to restrict vessel traffic from a portion of Lake Erie off the Enrico Fermi 2 and the Davis Besse Nuclear Power Stations.

DATES: This rule is effective July 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 docket [CGD09–02–011] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio 43604 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Herb Oertli, Chief of Port Operations, Marine Safety Office Toledo, at (419) 418–6050.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 8, 2002, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zones; Captain of the Port Toledo Zone, Lake Erie'' in the **Federal Register** (67 FR 30846). We received 10 letters commenting on the proposed rule. No public hearing was requested, and none was held.

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**. The permanent security zones being established by the rulemaking are smaller in size than the temporary security zones currently in effect. By immediately implementing the smaller zone size, we will be relieving some of the burden placed on the public by a larger security zone. In addition, the temporary security zones currently in place may impact several private residences, the smaller permanent security zones ensure that these residences are not adversely impacted.

Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in the destruction of the World Trade Center, significant damage to the Pentagon, and tragic loss of life. National security and intelligence officials warn that future terrorists attacks are likely.

This rule establishes a permanent security zone off the waters of Enrico Fermi 2 Nuclear Power Station, Newport, Michigan. This security zone includes waters and adjacent shoreline within a boundary commencing at 41°58.4′ N, 083°15.4′ W; then northeast to 41°58.5′ N, 083°15.0′ W; then southeast to 41°58.2′ N, 083°13.7′ W; then south to 41°56.9′ N, 083°13.8′ W; then west to 41°56.9′ N, 083°15.2′ W; then back to the starting point at 41°58.4′ N, 083°15.4′ W. These coordinates are based upon North American Datum 1983 (NAD 83).

This rule also establishes a permanent security zone off the waters of Davis Besse Nuclear Power Station, Port Clinton, Ohio. This security zone includes waters and adjacent shoreline within a boundary commencing at 41°36.1′ N, 083°04.7′ W; then north to 41°37.0′ N, 083°03.9′ W; east to 41°35.9′ N, 083°02.5′ W; southwest to 41°35.4′ N, 083°03.7′ W; then west following the shoreline back to the point of origin (NAD 83).

These security zones are necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Toledo, or his authorized representative, are prohibited from entering or moving within these zones. The Captain of the Port Toledo may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. The Captain of the Port Toledo's on-scene representative will be the patrol commander. In addition to publication in the **Federal Register**, the public will be made aware of the existence of this security zone, exact location and the restrictions involved via Local Notice To Mariners.

Discussion of Comment and Changes

The Coast Guard received 10 comments on the proposed rulemaking. Eight comments support the establishment of security zones around the nuclear power stations. The only concern of those in favor of the establishment of security zones was that Coast Guard ensure the permanent security zones do not encompass the beachfront of any private residences. The two comments against establishing permanent security zones questioned the impact of having security zones.

Three comments recommended changes to the security zone coordinates surrounding the Davis Besse Nuclear Power Station. The commenters noted that the Coast Guard's beginning coordinate for the security zone around the David Besse Power Station (41°36.3′ N, 083°04.9′ W) included several private residences. The comments requested the Coast Guard identify a new starting coordinate that excludes the private residences. After conducting an updated security risk assessment of the facility, the Coast Guard concurs with these comments and has identified the new starting coordinate as 41°36.1′ N, 083°04.7′ W (NAD 83).

Two comments opposed the security zone around the Enrico Fermi 2 Power Station, one questioning the impact of a security zone and the other stating that allowing fishermen in the area is a better way to protect the area. The security zones create a clear area in which unauthorized persons are readily detectable. This area, coupled with Coast Guard patrols, the assistance of state, local, and the nuclear power plant security personnel, all help to create an area to detect and respond to unauthorized individuals or vessels. Currently, the Captain of the Port Toledo believes that this method is the most effective way of deterring waterborne security threats to these nuclear facilities.

Regulatory Evaluation

This final 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 exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory

Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT was not conducted. The change to the starting coordinate discussed above does not change this assessment.

Small Entities

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

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

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Our rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone. In addition, in the event that it may be necessary, prior to transiting commercial vessels can request permission from the Captain of the Port Toledo to transit through the zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. No comments or questions were received from any small businesses.

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 under Executive Order 13132, Federalism, and have determined that this rule would not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) 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. We received several comments from property owners that wanted to ensure the security zones did not include any of their beachfront property. The western end of the security zone was adjusted slightly to ensure that the security zone did not encompass any private property.

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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this 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.lD, 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**.

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, and 160.5; 49 CFR 1.46.

§ 165.T09–135 [Removed]

2. Remove § 165.T09–135.

§ 165.T09–136 [Removed]

3. Remove § 165.T09–136.

4. Add § 165.915 to read as follows:

§ 165.915 Security zones; Captain of the Port Toledo Zone, Lake Erie.

(a) *Security zones.* The following areas are security zones:

(1) *Enrico Fermi 2 Nuclear Power Station.* All waters and adjacent shoreline encompassed by a line commencing at 41°58.4′ N, 083°15.4′ W;

then northeast to 41°58.5′ N, 083°15.0′ W; then southeast to 41°58.2′ N, 083°13.7′ W; then south to 41°56.9′ N, 083°13.8′ W; then west to 41°56.9′ N, 083°15.2′ W; then back to the starting point at 41°58.4′ N, 083°15.4′ W (NAD 83).

(2) *Davis Besse Nuclear Power Station.* All waters and adjacent shoreline encompassed by a line commencing at 41°36.1′ N, 083°04.7′ W; north to 41°37.0′ N, 083°03.9′ W; east to 41°35.9′ N, 083°02.5′ W; southwest to 41°35.4′ N, 083°03.7′ W; then back to the starting point 41°36.1′ N, 083°04.7′ W (NAD 83).

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Toledo. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit through either of these security zones, prior to transiting, must contact the Captain of the Port Toledo at telephone number (419) 418–6050, or on VHF/FM channel 16 and request permission. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: July 3, 2002.

D.L. Scott,

Commander, U.S. Coast Guard, Captain of the Port Toledo.

[FR Doc. 02–17739 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–060]

Safety Zones; Captain of the Port Milwaukee Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Milwaukee Zone during July 2002. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Milwaukee Zone.

DATES: Effective from 12:01 a.m. (local) on July 1, 2002 to 11:59 p.m. (local) on July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Chief Dave McClintock, U.S. Coast Guard Marine Safety Office Milwaukee, at (414) 747–7155.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zones in 33 CFR 165.909 (67 FR 44558, July 3, 2002), for fireworks displays in the Captain of the Port Milwaukee Zone during July 2002. The following safety zones are in effect for fireworks displays occurring in the month of July 2002:

(1) *City of Sheboygan Fourth of July Fireworks, Sheboygan, WI. Location:* All waters and adjacent shoreline of Lake Michigan encompassed by the arc of a circle with an 840-foot radius with its center in the approximate position 43°44.48′ N, 087°42.14′ W (NAD 1983), on July 4, 2002 from 9:20 p.m. until 10:05 p.m. In the event of inclement weather on July 4, 2002, the safety zone will be enforced on July 5, 2002 from 9:20 p.m. until 10:05 p.m. This safety zone will encompass the entrance to Sheboygan Harbor and will result in its closure while the safety zone is in effect.

(2) *City of Kenosha Fourth of July Fireworks, Kenosha, WI. Location:* All waters and adjacent shoreline around the South Pier Light area, Lake Michigan encompassed by the arc of a circle with an 840-foot radius with its center in approximate position 42°35.17′ N, 087°48.33′ W (NAD 1983), on July 4, 2002 from 9:15 p.m. until 10:05 p.m. This safety zone will encompass the entrance to Kenosha Harbor and will result in its closure while the safety zone is in effect.

(3) *U.S. Bank (Firstar) Fireworks, Milwaukee, WI. Location:* All waters and adjacent shoreline south of Juneau Park, outer Milwaukee Harbor encompassed by the arc of a circle with an 840-foot radius of the fireworks barge with its center in approximate position 43°02.23′ N, 087°53.30′ W (NAD 1983), on July 3, 2002 from 9:20 p.m. until 10:10 p.m. In the event of inclement weather on July 3, 2002, the safety zone will be enforced on July 4, 2002 from 9:20 p.m. until 10:10 p.m.

(4) *Manitowoc Municipal Fourth of July Fireworks, Manitowoc, WI. Location:* The primary location will include all waters and adjacent shoreline east of the Manitowoc Yacht Club, Lake Michigan encompassed by the arc of a circle with an 840-foot radius of the fireworks barge in approximate position 44°06.05′ N, 087°38.37′ W (NAD 1983), on July 4, 2002 from 9:20 p.m. until 10:10 p.m. The alternate location will include all waters and the adjacent shoreline encompassed by the arc of a circle with a 420-foot radius of the fireworks barge with its center in approximate position 44°05.33′ N, 087°39.00′ W (NAD 1983), on July 4, 2002 from 9:20 p.m. until 10:10 p.m. If display is moved to secondary site, it will temporarily close entrance to Manitowoc Harbor.

(5) *Fourthfest of Greater Racine, Racine, WI. Location*: The primary location will include all waters and adjacent shoreline around the north breakwall, Lake Michigan encompassed by the arc of a circle with a 560-foot radius with its center in approximate position 42°44.14′ N, 087°46.30′ W (NAD 1983) on July 4, 2002 from 9:20 p.m. until 10:10 p.m. The alternate location will include all waters and adjacent shoreline encompassed by the arc of a circle with a 560-foot radius with its center in approximate position 42°44.21′ N, 087°46.45′ W (NAD 1983) (on the beach north of the northern breakwall) on July 4, 2002 from 9:20 p.m. until 10:10 p.m. In the event of inclement weather on July 4, 2002, the safety zone will be enforced on July 5, 2002 from 9:20 p.m. until 10:10 p.m.

(6) *Celebrate Amerifest, Green Bay, WI. Location*: All waters and adjacent shoreline between the Green Bay & Western Railroad Bridge (mile marker 1.03) and the Mason St. Bridge (mile marker 3.52) on the Fox River on July 4, 2002 from 2 p.m. until 11 p.m. This safety zone will temporarily close the Fox River. (This safety zone does not encompass the water of the East River.)

(7) *South Shore Frolics Fireworks, Milwaukee, WI. Location*: All waters and adjacent shoreline east of the South Shore Park, Milwaukee Harbor encompassed by the arc of a circle with a 280-foot radius with its center in approximate position 42°59.43′ N, 087°52.54′ W (NAD 1983), on July 12, 13, and 14, 2002 from 9:50 p.m. until 10:30 p.m.

(8) *Kewaunee Annual Trout Festival, Kewaunee, WI. Location*: All waters and adjacent shoreline around the south breakwall area, Lake Michigan encompassed by the arc of a circle with a 560-foot radius with its center in approximate position 44°27.30′ N, 087°29.46′ W (NAD 1983), on July 19, 2002 from 9:20 p.m. until 9:50 p.m. This safety zone will temporarily close the entrance to Kewaunee Harbor.

(9) *Port Washington Fish Days Fireworks, Port Washington, WI. Location:* All waters and adjacent shoreline around the Wisconsin Electric Coal Dock, Lake Michigan encompassed by the arc of a circle with an 840-foot

radius with its center in approximate position 43°23.07′ N, 087°51.55′ W (NAD 1983), on July 20, 2002 from 9:25 p.m. until 10:10 p.m. This safety zone will temporarily close the entrance to Port Washington Harbor.

(10) *Germanfest Fireworks, Milwaukee, WI. Location:* All waters off of Henry W. Maier Festival Park Harbor Island, outer Milwaukee Harbor from the point of origin 43°02.209′ N, 087°53.714′ W; then southeast to 43°02.117′ N, 087°53.417′ W; then south to 43°01.767′ N, 087°53.417′ W; southwest to 43°01.555′ N, 087°53.772′ W; then north following the shoreline back to the point of origin (NAD 1983) on July 26, 27, and 28, 2002 from 9:50 p.m. until 10:30 p.m. The Harbor Island Lagoon Area is encompassed by this safety zone.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be enforced for the duration of the events. Vessels may not enter the safety zone without permission from Captain of the Port Milwaukee. Requests to transit the safety zone must be made in advance by contacting the person listed in **FOR FURTHER INFORMATION CONTACT** and must be approved by the Captain of the Port Milwaukee before transits will be authorized. Spectator vessels may anchor outside the safety zone but are cautioned not to block a navigable channel.

Dated: July 3, 2002.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 02–17740 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–020]

Safety Zone; Gary Air and Water Show, Lake Michigan, Gary, IN

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Gary Air and Water Show. The safety zone is necessary to protect vessels, participants and spectators during the Gary Air and Water Show. This safety zone is intended to restrict vessels from a portion of Lake Michigan.

DATES: This temporary final rule is effective from 8:30 a.m. (local), on July 19, 2002, until 11 p.m. (local) on July 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CDG09–02–020] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Chicago, Illinois 60527, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST3 Kathryn Varela, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986–2155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life, injury, or damage to property or the environment.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with firework displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize any risks.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port Chicago's designated on scene representative will be the Patrol Commander. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This temporary 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). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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 offered to assist small entities in understanding this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. 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, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications under that Order.

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 would 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

The Coast Guard has 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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, 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.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITITED 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, and 160.5; 49 CFR 1.46.

2. From 8:30 a.m. on July 19, 2002 until 11 p.m. on July 21, 2002, a new temporary § 165.T09–011 is added to read as follows:

§ 165.T09–011 Safety Zone; Lake Michigan, Gary, Indiana.

(a) *Location.* The following is a safety zone: all waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a radius of 5 nautical miles with its center in approximate position 41°37′25″ N, 087°15′42″ W (off of Miller Beach Ogden Dunes). These coordinates are based upon North American Datum 1983 (NAD 1983).

(b) *Enforcement periods.* This section will be enforced from 8:30 a.m. to 5 p.m. (local), on July 19, 2002; from 8:30 a.m. to 5 p.m. (local), on July 20, 2002; and from 8:30 a.m. to 11 p.m. on July 21, 2002.

(c) *Regulations.* In accordance with § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated on scene representative. Section 165.23 also contains other applicable requirements.

Dated: June 28, 2002.

R.E. Seebald,

Captain, Coast Guard, Captain of the Port Chicago.

[FR Doc. 02–17742 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Miami–02–054]

RIN 2115–AA97

Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL, and Port of Key West, Key West, Florida; Hutchinson Island Power Plant, St. Lucie, Florida, and Turkey Point Power Plant, Florida City, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard will be maintaining temporary security zones in the Captain of the Port Miami area for national security reasons to protect the public and ports from potential subversive acts. Similar security zones have been in effect under temporary rules following the terrorist attacks of September 11, 2001, on the World Trade Center and Pentagon. While this temporary rule is in effect, the Coast Guard will engage in notice and comment rulemaking to propose that these security zones be made permanent. Entry into these zones will be prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

DATES: This rule is effective from 12 midnight on June 16, 2002 until 11:59 p.m. on December 15, 2002. Comments and related material must reach the Coast Guard on or before September 13, 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 Miami 02–054] and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139–6940, between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Warren Weedon, Coast Guard Marine Safety Office Miami, at (305) 535–8701.

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, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States.

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**. The Coast Guard will issue a broadcast notice to mariners and place enforcement vessels in the vicinity to advise mariners of the restriction. While this rule is in effect, the Coast Guard will complete notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment within the Captain of the Port Miami zone.

Request for Comments

Although the Coast Guard has good cause to implement this regulation without a notice of proposed rulemaking, we want to afford the public the opportunity to participate in this rulemaking by submitting comments and related material regarding the size and boundaries of these security zones in order to minimize unnecessary burdens. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP Miami 02–054] indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary final rule in view of them.

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for development of various security measures throughout the seaports of the United States, particularly those vessels and facilities which are frequented by foreign nationals and maintain an interest to national security. Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely.

The Captain of the Port (COTP) of Miami has determined that there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Ports of Palm Beach, Miami, Port Everglades, and Key West, Florida against hazardous cargo vessels and high capacity passenger vessels entering, departing and moored within these ports. The same threat is posed to the power plants located at Hutchinson Island and Turkey Point and these security zones are necessary to protect the public, ports, and waterways of the United States from potential subversive acts.

The Coast Guard Captain of the Port (COTP), Miami established temporary security zones in these areas shortly following the September 11, 2001 attacks. Those temporary final rules (TFRs) issued before this rulemaking will expire soon:

On September 11, 2001, the COTP issued a TFR (67 FR 9194, 9195, February 28, 2002, Docket # COTP Miami 01–093) for 100-yard security zones around certain vessels in the Port of Palm Beach, Miami, Port Everglades, and Key West, FL, that expired September 25, 2001. On September 25, 2001, the COTP issued another TFR (67 FR 1101, January 9, 2002, COTP Miami 01–115) that maintained these 100-yard security zones around certain vessels in the Ports of Palm Beach, Miami, Port Everglades, and Key West, FL, and added a reference to specific points (buoys) where moving zones were activated and deactivated. This second TFR will expire June 15, 2002.

On September 21, 2001, the COTP issued a TFR (67 FR 9194, 9195, February 28, 2002, Docket # COTP Miami 01–106) for security zones around Turkey Point and Saint Lucie, FL, nuclear power plants that expired November 21, 2001. On December 10, 2001, the COTP issued another TFR (67 FR 4355, January 30, 2002, COTP Miami 01–142) for security zones around these two nuclear power plants that will expire June 15, 2002.

On October 7, 2001, the COTP issued a TFR (67 FR 6652, February 13, 2002, COTP Miami 01–116) for fixed-security zones in Port Everglades and Miami, FL, that will expire June 15, 2002.

On October 11, 2001, the COTP issued a TFR (67 FR 4177, January 29, 2002, COTP Miami 01–122) for a fixed-security zone for Port Everglades, FL, that will expire June 15, 2002.

Discussion of Rule

In this one rule, the COTP is combining the security zones discussed in the four immediately proceeding paragraphs. These zones are described below in the same order as they appear in the regulation, 33 CFR 165.T07–054.

Fixed and Moving Security Zones Around Vessels in the Ports of Palm Beach, Port Everglades, Miami, and Key West—Paragraph (a)(1) of this temporary rule will create 100-yard fixed and moving security zones in the Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL. These security zones will be activated when a cruise ship, a vessel carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in Title 33, Code of Federal Regulations parts 126 and 127 respectively, enter or moor within one of these Ports. The security zones will be activated when a subject vessel passes the sea buoy for inbound transits, and is deactivated when the vessel departs the port and passes the sea buoy.

Fixed Security Zone in the Port of Miami—Paragraph (a)(2) of this temporary rule will create a fixed security zone encompassing all waters between the Port of Miami and MacArthur Causeway. The fixed security zones is activated when two or more high capacity passenger vessels, vessels carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in Title 33, Code of Federal Regulations part 120, 126, and 127 respectively, enter or moor within this zone.

Fixed Security Zones in Port Everglades—Paragraph (a)(3) of this temporary rule will create a fixed security zone encompassing the waters of the Intracoastal Waterway between the northern tip of Port Everglades berth 22 near Burt and Jacks Restaurant and a point directly east across the Intracoastal Waterway; and a line drawn from the corner of Port Everglades berth 29 at point easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area. The fixed security zone is activated when a cruise ship, a vessel carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in Title 33, Code of Federal Regulations part 126 and 127 respectively, enter or moor within this zone.

Hutchinson Island Power Plant and Turkey Point Power Plant—Paragraph (a)(4) of this temporary rule will create a security zone in waters around the Hutchinson Island (Port St. Lucie) nuclear power plant. The zone will include all waters within a line connecting the following points: 27°21.20′ N, 080°16.26′ W; 27°19.18′ N, 080°15.21′ W; 27°20.36′ N, 080°12.83′ W; 27°22.43′ N, 080°13.8′ W. Paragraph (a)(5) will create a security zone for Turkey Point power plant. The zone

will include all land and water within lines connecting the following points: 25°26.8′ N, 080°16.8′ W; 25°26.8′ N, 080°21′ W; 25°20′ N, 080°16.8′ W; 25°20′ N, 080°20.4′ W.

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).

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 because vessel traffic may be minimally impacted for short periods to allow for the arrival and departure of high risk vessels. Alternate vessel traffic routes have also been accounted for to assist in minimizing delays. Also, the Captain of the Port of Miami may allow persons or vessels into these security zones on a case-by-case basis.

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.

Therefore, 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 most small entities will be able to transit around the security zones and they may be allowed to enter the zone 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 (Public Law 104–121), we offered to assist small entities in understanding this rule so that they could 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.

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act of 1995 (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 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 would not create an environmental risk to health or risk to safety that might 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

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 is categorically excluded from further environmental documentation because no environmental changes will be affected with the security zone implementation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. A new temporary § 165.T07–054 is added to read as follows:

§ 165.T07–054 Security Zones, Port of Palm Beach, Port Everglades, Port of Miami, and Port of Key West, FL; St. Lucie Hutchinson Island, and Turkey Point Power Plants, FL.

(a) The following areas are security zones:

(1) *Fixed and Moving Security Zones Around Vessels in the Ports of Palm Beach, Port Everglades, Miami, and Key West*—Temporary moving security zones are established 100 yards around all high capacity passenger vessels, vessels carrying cargoes of particular hazard or liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, during transits entering or departing the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida. These moving security zones are activated when the subject vessel passes: ''LW'' buoy, at approximate position 26°46′18″ N, 080°00′36″ W when entering the Port of Palm Beach, passes ''PE'' buoy, at approximate position 26°05′30″ N, 080°04′48″ W when entering Port Everglades; the ''M'' buoy, at approximate position 25°46′06″ N, 080°05′ when entering the Port of Miami; and ''KW'' buoy, at approximate position 24°27′42″ N, 081°48′06″ W when entering the Port of Key West. Temporary fixed security zones are established 100 yards around all high capacity passenger vessels, vessels carrying cargoes of particular hazard or liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, while they are docked in the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida.

(2) *Fixed Security Zone in the Port of Miami*—A fixed security zone encompasses all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami. The western boundary is formed by an imaginary line from points 25°46.76′ N, 080°10.87′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, which leads to Star Island, and MacArthur Causeway directly extending across the Main Channel to the Port of Miami, at 25°46.32′ N, 080°09.23′ W. The fixed security zone is activated when two or more of either a high capacity passenger vessel, a vessel carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in 33 CFR parts 120, 126, and 127 respectively, enter or moor within this zone.

(i) Vessels may transit the Main Channel when only one cruise ship or vessel carrying cargoes of particular hazard are berthed, by staying on the north side of the law enforcement boats and cruise ship tenders which will mark a transit lane in channel.

(ii) When high capacity passenger vessels are not berthed on the Main Channel, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(3) *Fixed Security Zones in the Port Everglades*—A temporary fixed security zone encompasses all waters west of an imaginary line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Bridge, to the southern most point 26°05.41′ N, 080°06.97′ W on the northern tip of pier 22 near Burt and Jacks Restaurant, Port Everglades, Florida. An additional temporary fixed security zone encompasses the Intracoastal Waterway between a line connecting point 26°05.41′ N, 080°06.97′ W on the northern tip of berth 22 near Burt and Jacks Restaurant and a point directly east across the Intracoastal Waterway to 26°05.41′ N, 080°06.74′ W; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72′ N, 080°06.92′ W, easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area at point 26°04.72′ N, 080°06.81′ W. The fixed security zone is activated when a cruise ship, a vessel carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in 33 CFR parts 126 and 127 respectively, enter or moor within this zone.

(i) Vessels may transit the Intercoastal Waterway when high capacity passenger vessels or vessels carrying cargoes of particular hazard are berthed, by staying east of the law enforcement boats and cruise ship tenders which will mark a transit lane in the Intercoastal Waterway.

(ii) Periodically, vessels may be asked to temporarily hold their positions while large commercial traffic operates in this area. Vessels near this security zone must follow the orders of the law enforcement vessels on scene. When high capacity passenger vessels are not berthed on the Intercoastal Waterway, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(4) *Hutchinson Island Power Plant*—A temporary security zone encompasses all waters within lines connecting the following points: 27°21.20′ N, 080°16.26′ W; 27°19.18′ N, 080°15.21′ W; 27°20.36′ N, 080°12.83′ W; 27°22.43′ N, 080°13.8′ W.

(5) *Turkey Point Power Plant*—A temporary security zone encompasses all land and water within lines connecting the following points: 25°26.8′ N, 080°16.8′ W; 25°26.8′ N, 080°21′ W; 25°20′ N, 080°16.8′ W; 25°20′ N, 080°20.4′ W.

(b) *Regulations.* (1) Prior to commencing the movement, the person directing the movement of a high capacity passenger vessel, a vessel carrying cargoes of particular hazard or when a liquefied hazardous gas (LHG) vessel as defined in 33 CFR parts 120, 126 and 127 respectively, shall make a security broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) to advise mariners of the moving security zone activation and intended transit.

(2) 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 Miami or his designated representative. Certain industry vessels such as pilot boats, cruise ship tenders, tug boats and contracted security vessels may patrol these zones to strictly advise mariners of the restrictions. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) when the security zones are being enforced.

(3) Persons desiring to enter or transit the area of the security zone may contact the Captain of the Port on VHF Marine Band Radio, Channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(4) The Captain of the Port Miami may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for the purpose of port security, safety or environmental safety.

(c) *Dates.* This section is effective from 12 midnight on June 16, 2002 until 11:59 p.m. on December 15, 2002.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: June 13, 2002.

J.A. Watson, IV,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 02–17741 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 265

Release of Information

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule changes the procedures for the release of information about holders of postage meter licenses. The procedures are necessary to ensure individual privacy while providing for the release of information needed for customer protection.

DATES: This rule is effective July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson, 703–292–3782, or by fax, 703–292–4050.

SUPPLEMENTARY INFORMATION: The Postal Service published a proposed rule on May 9, 2002, to amend 39 CFR part 265, Release of Information, giving new procedures for releasing the name and address of a particular holder of a postage meter license. The new procedures will ensure that legitimate expectations of individual privacy are met, while providing for the release of information needed for consumer protection. The new procedures remove the processing of requests for information about meter license holders from field locations, and enables Postage Technology Management at Postal Service Headquarters to ensure that information is released appropriately. Comments on the proposed rule were due on or before June 10, 2002. We received no comments objecting to the proposed rule or requesting any changes. Therefore, the rule is adopted as final without any changes.

List of Subjects in 39 CFR Part 265

Administrative practice and procedure, Postal Service.

The Amendment

For the reasons set out in this document, the Postal Service is amending 39 CFR part 265 as follows:

PART 265—RELEASE OF INFORMATION

1. The authority citation for part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3, 39 U.S.C. 401, 403, 410, 1001, 2601.

2. Amend § 265.6 by revising paragraphs (d) introductory text and (d)(2); by redesignating paragraphs (d)(3) through (d)(8) as paragraphs (d)(4) through (d)(9), respectively; and by adding a new paragraph (d)(3) to read as follows:

§ 265.6 Availability of records.

* * * * *

(d) *Disclosure of names and addresses of customers.* Upon request, the names and addresses of specifically identified Postal Service customers will be made available only as follows:

* * * * *

(2) *Name and address of permit holder.* The name and address of the holder of a particular bulk mail permit, permit imprint or similar permit (but not including postage meter licenses), and the name of any person applying for a permit in behalf of a holder will be furnished to any person upon the payment of any fees authorized by paragraph (b) of § 265.9. For the name and address of a postage meter license holder, see paragraph (d)(3) of this section. (Lists of permit holders may not be disclosed to members of the public. See paragraph (e)(1) of this section.)

(3) *Name and address of postage meter license holder.* The name and address of the holder of a postage meter license authorizing use of a postage meter printing a specified indicium will be furnished to any person upon the payment of any fees authorized by paragraph (b) of § 265.9, provided the holder is using the license for a business or firm. The request for this information must be sent to the manager of Postage Technology Management, Postal Service Headquarters. The request must include the original or a photocopy of the envelope or wrapper on which the meter indicium in question is printed, and a copy or description of the contents to support that the sender is a business or firm and not an individual. (Lists of postage meter license holders may not be disclosed to members of the public. See paragraph (e)(1) of this section.)

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–17712 Filed 7–12–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[A–1–FRL–7240–7]

Approval and Promulgation of Section 112(l) Authority for Regulating Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emissions Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a delegation request submitted by the State of Maine. Pursuant to section 112(l) of the Clean Air Act (CAA), Maine Department of Environmental Protection (ME DEP) requested approval to implement and enforce state permit terms and conditions that substitute for the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry. EPA is granting ME DEP the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements. This action is being taken in accordance with the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on August 14, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, Office of Ecosystems Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023, Telephone (617) 918–1655.

SUPPLEMENTARY INFORMATION:

Outline

I. What Action Is EPA Taking?

EPA is approving a delegation request submitted by ME DEP under section 112 of the Clean Air Act (CAA), 42 U.S.C. 7412. On January 17, 2002, EPA proposed to approve ME DEP's delegation request for authority to substitute approved state permit terms and conditions for otherwise applicable federal section 112 standards (67 FR 2390). This action finalizes our approval of ME DEP's delegation request.

II. Why Is EPA Taking This Action?

On April 15, 1998, EPA promulgated the National Emission Standards for Hazardous Air Pollutants for the Pulp and Paper Industry (63 FR 18617), which has been codified in 40 CFR part 63, subpart S. These standards regulate emissions of air toxics, or hazardous air pollutants (HAPs), within the pulp and paper production source category. The standards require both new and existing major sources within this category to control HAP emissions using the maximum achievable control technology (MACT). We will refer to these section 112 standards as ''the Pulp and Paper MACT.''

When Congress enacted the CAA amendments in 1990, it recognized that some state, local, and tribal (S/L/T) air pollution control agencies had developed their own air toxics rules. Congress therefore revised section 112(l) of the CAA to allow the EPA to approve S/L/T rules and regulations to be implemented and enforced in place of section 112 rules and requirements when the S/L/T agency demonstrates that such alternative standards or programs are no less stringent than EPA's rules (65 FR 55810 (September 14, 2000)).

EPA is approving ME DEP's alternative program because ME DEP has demonstrated that its requirements will be no less stringent than the Pulp and Paper MACT.

III. What Events Led Up to This Action?

On July 16, 1999, EPA delegated its authority to implement and enforce the Pulp and Paper MACT to ME DEP. Lincoln Pulp and Paper, in Lincoln, ME (LPP) is one of several sources in Maine currently subject to the Pulp and Paper MACT. On September 25, 2001, ME DEP requested authority to implement and enforce alternative requirements to the Pulp and Paper MACT at LPP. The EPA Regional Office in Boston has been working closely with ME DEP and LPP to define the alternative requirements. ME DEP will continue to implement and enforce the Pulp and Paper MACT without changes for all other pulp and paper mills in Maine.

ME DEP also asked us to approve its demonstration that it has adequate authorities and resources to implement and enforce all CAA section 112 programs and rules. This demonstration, when approved, will streamline the approval process for future CAA section 112(l) applications.

IV. In What Ways Can EPA Delegate HAP Standards to State Governments?

The provisions in 40 CFR part 63, subpart E (''delegation rule'') outline the procedures for delegating the authority to implement and enforce HAP standards and other requirements to S/L/T governments. Subpart E contains several options to allow S/L/Ts to demonstrate equivalency with corresponding federal requirements. These include: slight amendments to the federal section 112 rule (40 CFR 63.92); rule for rule substitution (40 CFR 63.93); program substitution (substituting for part or all of the air toxics program) (40 CFR § 63.97); or equivalency by permit (substituting rules through the operating permit program) (40 CFR 63.94). Under the Equivalency by Permit (''EBP'') provisions, approved S/L/T governments can substitute approved alternative requirements through title V operating permit terms and conditions (40 CFR 63.94).

V. What Is the Process for Approval of an Equivalency by Permit (EBP) Program?

The EBP process comprises three steps.

First, EPA gives ''up-front approval'' to a S/L/T EBP program; in this case, the state has submitted its EBP program. This step ensures that ME DEP meets the 40 CFR 63.91(d) criteria for up-front approval, provides a legal foundation for ME DEP to replace some federal section 112 requirements with alternative, federally enforceable requirements, and delineates the specific sources and federal emission standards for which the state is accepting delegation (65 FR 55816). If EPA approves the program, EPA will amend 40 CFR part 63 to incorporate the approval. The approval is contingent upon the state's including, in title V permits, terms and conditions no less stringent than the federal standard. Until the state writes its approved alternative requirements into the specific title V permit and issues it, the federal section 112 requirements remain applicable to the source (65 FR 55817).

Second, the state submits pre-draft title V permit terms and conditions to EPA for approval. EPA evaluates these terms and conditions, which will apply to the sources identified in step 1, and determines whether as a whole they are as stringent as the federal standard. EPA can identify potential issues with the equivalency demonstration and address them prior to the normal operating permit review process (65 FR 55817).

Third, the state writes the pre-draft permit terms and conditions that EPA approved into its draft title V permits. These then go through the regular title V permit issuance process, during which the public has an opportunity to comment on the submittal (40 CFR 70.7(a)(1)(ii) and (h)). EPA and the public can review the alternative requirements before final delegation occurs (65 FR 55817). EPA does not delegate authority unless the state issues the title V permit with the permit terms exactly as EPA approved them.

VI. Where Is Maine's EBP Program in the Delegation Process?

This rulemaking completes step 1 in the delegation process. ME DEP's EBP program has also completed step 2 in the delegation process. The delegation rule allows a state to submit its pre-draft permit terms and conditions at the same time as its request for up-front approval (40 CFR 63.94(c)(7)). In accordance with 40 CFR 63.94(d)(1)–(3), on January 17, 2002, ME DEP submitted LPP's pre-draft permit terms and conditions in a side-by-side comparison of the alternative requirements with the Pulp and Paper MACT requirements. EPA reviewed the pre-draft title V permit terms and conditions for LPP, identified several issues, and worked closely with ME DEP to ensure that our concerns were addressed. In a letter dated April 15, 2002, the EPA Regional Administrator conditionally approved the pre-draft permit terms and conditions. The approval is conditioned upon LPP meeting a number of requirements, including an initial performance demonstration to document that the alternative approach achieves emission reductions equivalent to or greater than those required by the Pulp and Paper MACT.

To complete the final step, the state will incorporate the approved permit terms and conditions into its draft title V permits for the affected sources (40 CFR 63.94(e)(1)). The permit must be issued or revised according to the provisions of 40 CFR 70.7 before EPA may finally delegate authority to the state to implement alternatives to the Pulp and Paper MACT through issuance of the permit (40 CFR 70.7(a)(1)(ii)).

There will be an opportunity for public comment during this process.

VII. What Are the Legal Standards Governing the EBP Program?

Section 112(l) of the CAA and 40 CFR part 63 subpart E allow S/L/T governments to develop and submit EBP programs to EPA for approval. If EPA approves a S/L/T's EBP program, the S/L/T can implement and enforce it ''in lieu of'' the Pulp and Paper MACT requirements through CAA title V permits. Section 112(l) allows us to approve S/L/T programs if the S/L/T can demonstrate that the program ''achieves equivalent or better environmental results'' as compared to the federal standards (65 FR at 55810). An EBP program ''shall not include authority to set standards less stringent than'' the federal standards (CAA Section 112(l)(1)).

Sections 63.91(d) and 63.94(b) specify the criteria that a S/L/T must meet for EPA to approve its EBP program. A request for program approval must: (1) To the extent possible, identify all specific sources or source categories for which the S/L/T is seeking authority to implement and enforce section 112 standards, and if any such sources comprise a subset of sources within the S/L/T's jurisdiction, request delegation for the remainder of the sources in those source categories; (2) to the extent possible, identify all existing and future section 112 emission standards for which the S/L/T is seeking authority to implement and enforce alternative requirements; (3) include a one-time demonstration that the S/L/T has an approved title V operating permit program and that the program permits the affected sources; and (4) meet the requirements in 40 CFR 63.91(d) for demonstrating that adequate authority and resources exist to implement and enforce the S/L/T EBP program. ME DEP's EBP program has met these criteria. *See* 62 FR 7939 (March 24, 1997) and 66 FR 52874 (December 17, 2001); Request for Approval of State Requirements that Substitute for a Section 112 Rule (September 25, 2001) (letter from James Brooks, Director, Maine DEP Bureau of Air Quality, submitting state's EBP program to EPA).

Furthermore, 40 CFR 63.94(d) specifies the criteria that the alternative requirements must meet for EPA to approve them. EPA's delegation of authority to implement the Pulp and Paper MACT is contingent upon the state including in title V permits terms and conditions that are no less stringent than the federal standard and have been approved by EPA (65 FR at 55817).

Pursuant to 40 CFR 63.94(d), all issued or revised title V permits under an approved program must: (1) Identify the specific terms and conditions with which the source would be required to comply pursuant to its title V permit, and contain permit terms and conditions that reflect all of the requirements of the otherwise applicable federal section 112 requirement; (2) identify specifically how the alternative requirements in the form of permit terms and conditions are ''the same as or differ from the requirements in the otherwise applicable Federal section 112 rule''; and (3) provide EPA with detailed documentation that demonstrates that the alternative requirements are at least as stringent as the otherwise applicable federal requirements, as specified in 40 CFR 63.93(b).

In this way, the regulations governing the EBP program ensure that the state's program sets environmental standards at least as stringent as those required under the applicable federal regulations, and that each affected source under the program will achieve compliance no later than would be required by the federal regulations. The EBP program simply allows S/L/Ts to meet these requirements by writing its standards into title V permits after EPA has approved the alternative requirements.

VIII. How Much Oversight Authority Does EPA Have Over an EBP Program?

EPA oversees enforcement and compliance with the federal HAP standards in a number of ways through the EBP process.

First, EPA reviews the S/L/T's EBP program and goes through notice and comment rulemaking during the ''up-front approval'' step. EPA approves the EBP program only after ensuring that the S/L/T has adequate authority and resources to implement and enforce it consistent with CAA requirements.

Second, even after a S/L/T's EBP program has been approved, EPA may object to a title V permit for noncompliance with applicable CAA requirements. CAA Section 505(b)(1); 40 CFR 70.8(c). Under 40 CFR 70.8(a), a state that is authorized to implement the title V permit program must submit to EPA a copy of each permit application (including any application for permit modification), each proposed permit, and each final title V permit. If EPA determines that any proposed permit is not in compliance with applicable requirements under the CAA and objects to issuance of the permit within 45 days of receipt of the proposed permit and all necessary supporting information, the permit cannot be issued (40 CFR 70.8(c)). If the state fails, within 90 days after the date of EPA's objection, to revise and submit a proposed permit in response to the objection, EPA will issue or deny the permit in accordance with the requirements of the federal program promulgated under title V of the CAA (40 CFR 70.8(c)(4)).

In each pre-draft, proposed and final permit, ME DEP is required to indicate prominently that the permit contains alternative section 112 requirements. In addition, ''[i]n the notice of pre-draft permit availability, the state shall specifically solicit public comments on the alternative requirements'' (40 CFR 63.94(e)(2)).

Third, even after the state issues a title V permit, EPA can terminate, modify, or revoke and reissue a permit upon a finding of good cause (40 CFR 70.7(g)). EPA can reopen and revise a permit under a number of circumstances—(*e.g.* where new CAA requirements apply), where EPA finds that the permit contains a material mistake, or where EPA determines that the permit must be revised or revoked to assure compliance with applicable requirements (40 CFR 70.7(f)). If EPA finds such cause, it will notify the state and the permittee of this finding in writing (40 CFR 70.7(g)). The state must then forward to EPA a ''proposed determination of termination, modification, or revocation and reissuance,'' as appropriate (40 CFR 70.7(g)(2)). If the state fails to submit a proposed determination or fails to resolve any objection that EPA makes to the permit, EPA will ultimately terminate, modify, or revoke and reissue the permit (40 CFR 70.7(g)(5)).

Fourth, EPA retains authority to enforce any applicable rule, emission standard or requirement established under CAA section 112 (40 CFR 63.90(d)(2)). In addition, the CAA authorizes EPA to enforce all rules, programs, state or local permits, or other requirements approved under part 63, including the EBP program, and all resulting title V operating permit conditions (40 CFR 63.90(e)).

Finally, whenever EPA determines that a permitting authority is not adequately administering or enforcing a program in accordance with the requirements of the CAA, EPA must notify the state (40 CFR 70.10(b)(1)). If the state's failure to administer or enforce the program persists after such notice the state may be subject to sanctions under section 179(b) of the Act, and EPA may ultimately promulgate, administer, and enforce a federal permit program (40 CFR 70.10(b)(2)).

Thus, at every step in the EBP process, EPA reviews the S/L/T's program and its implementation to ensure that all applicable federal requirements are met. First, EPA ensures that the S/L/T has adequate authority and resources to implement and enforce the EBP program consistent with CAA requirements. Second, EPA reviews the pre-draft title V permit terms and conditions and can object to any proposed permit that fails to set standards at least as stringent as those required under the applicable federal regulations. Third, throughout the life of a title V permit that has been issued, EPA retains authority to terminate, modify, or revoke and reissue it upon a finding of good cause. Fourth, EPA retains authority to enforce the terms and conditions of any title V permit. Finally, whenever EPA determines that a permitting authority is not adequately administering and enforcing a program, EPA is authorized to implement a federal permit program.

IX. What Comments Did EPA Receive and How Did We Respond?

On February 7, 2002, in response to the proposed rule, the Penobscot Indian Nation (''the Nation'') submitted comments to EPA. EPA did not receive any other comments.

The Nation's reservation includes over 110 islands in the Penobscot River. Many of these islands are downstream of LPP, including Indian Island, seat of the Nation's government. The discharge from LPP's waste treatment system empties into the Penobscot River.

a. *Comment 1:* The Nation is concerned about methanol emissions at LPP. Since its tribal reservation lands are located directly in LPP's discharge flow, the Nation believes that LPP's proposal to move its methanol emissions through its wastewater biological treatment system will significantly impact the Nation's natural resources all along the aquatic ecosystems of the river and islands.

Response: EPA recognizes the Nation's concern about methanol releases into the Penobscot River. ME DEP has demonstrated, however, that its EBP program will ensure LPP achieves a level of control at least as stringent as the federal requirements in the Pulp and Paper MACT.

The Pulp and Paper MACT requires kraft pulp mills to control emissions of condensate streams from certain processes (40 CFR 63.440 through 63.459). One control option for kraft pulp mills is to enclose the condensate streams in a closed collection system and route the enclosed streams to a wastewater biological treatment system. Emissions that would have been emitted from an open sewer system can be captured and then destroyed in a biological treatment unit (40 CFR 63.446). The federal regulation requires kraft pulp mills to either: (1) Reduce or destroy the total HAPs by at least 92% or more by weight; or (2) for mills that perform bleaching, to remove 10.2 pounds per ton or more of total HAP per oven dried ton of pulp (ODP) (40 CFR 63.446(e)).

LPP has proposed an alternative to the Pulp and Paper MACT where the condensate streams are enclosed as required in the federal rule, except that the streams will be routed through the facility's wetwell and primary clarifier prior to reaching the biological treatment unit. The wetwell and the primary clarifier are open to the atmosphere and therefore some HAP emissions will be lost from these units. To compensate for the emissions lost from these locations, LPP has completed a sewer upgrade project which includes sending two waste streams not regulated by the Pulp and Paper MACT through the closed collection system. EPA has calculated, based on preliminary data provided by LPP, that the losses from the wetwell and clarifier are less than the extra reductions from LPP's upgraded sewer project and the control of additional waste streams. EPA has issued a conditional approval of the pre-draft permit terms and conditions that requires LPP to conduct an initial performance demonstration to document equivalency. The alternative, therefore, must result in emission reductions that are at least equivalent to those required by the Pulp and Paper MACT.

Whether LPP complies with the Pulp and Paper MACT or with alternative requirements through an approved EBP program, it must destroy HAPs by at least 92% or remove at least 10.2 lb/ODT of HAPs. Therefore, the alternative proposed by LPP will not significantly impact the Nation's natural resources in comparison with continued enforcement of the Pulp and Paper MACT. In addition, adequate monitoring provisions are in place to ensure that when LPP does emit too much methanol into the river or the air, the state and EPA can take appropriate actions to restore the performance required by the MACT.

b. *Comment 2:* The Nation believes that EPA's approval of ME DEP's program will affect enforcement of and compliance with the federal standards.

Response: As discussed above in section VII, the legal framework governing the EBP program ensures that the state's program sets environmental standards at least as stringent as those required under the applicable federal regulations. EPA has worked closely with ME DEP and LPP to ensure that the alternative requirements for LPP will achieve equivalent or better environmental results. In addition, as discussed in section VIII, EPA's delegation in no way impairs the Agency's authority to oversee and enforce those equivalent requirements. EPA's delegation therefore will not affect enforcement of and compliance with the federal standards.

c. *Comment 3:* The Nation considers approval of ME DEP's EBP program to be inappropriate in light of EPA's trust responsibility to the Nation.

Response: The federal government has a trust responsibility to federally-recognized Indian tribes that arises from Indian treaties, statutes, executive orders, and the historical relations between the United States and Indian tribes. EPA acknowledges that it must act in accordance with this trust responsibility when taking actions that affect tribal interests, including consulting with affected tribes and assessing tribal interests and concerns in decision making.

EPA believes its action in approving ME DEP's EBP program is consistent with its trust responsibility to the Nation. As discussed above, EPA has determined that approval of ME DEP's EBP program will not have any adverse effect on the Nation's resources because the program will achieve a level of emissions control at least as stringent as the applicable federal standard and is subject to a level of EPA oversight equivalent to the existing part 63 and part 70 programs.

In addition, upon EPA's receipt of this application from ME DEP in September 2001, EPA immediately recognized the need to consult with the Nation in Maine and initiated such discussions in October. EPA corresponded several times with representatives at the Nation's Department of Natural Resources from December through February, and also met with the Nation's representatives in Maine on February 20, 2002.

During the public comment period, the Nation also raised questions as to how EPA would consult with tribes in our oversight of the CAA permit program. The Regional air permitting program and the Nation have agreed to discuss the issue of identifying facilities that EPA expects to have an impact in Indian country and to work toward developing an approach for consultation with Indian tribes in appropriate cases as permits are being developed. EPA

will seek and carefully consider the Nation's input during this process.

Final Action

EPA is approving ME DEP's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for LPP for subpart S.

X. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.'' This rule is not subject to Executive Order 13045, entitled, ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

B. Executive Order 13175

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.''

EPA has concluded that this final rule may have tribal implications because LPP is located near the Penobscot Nation's territories. This action will not, however, impose substantial direct compliance costs on tribal governments or preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this rule.

EPA consulted with tribal officials early in the process of developing this regulation to permit them to have meaningful and timely input into its development. After carefully considering the Nation's concerns, as discussed above in EPA's response to comments, EPA has concluded that this action will have no adverse effect on tribal resources because the regulations governing the EBP program ensure that the state's program sets environmental standards at least as stringent as those required under the applicable federal regulations. In addition, EPA's delegation in no way impairs the Agency's authority to oversee and enforce the state's equivalent standards.

C. Executive Order 13132

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.''

This final rule 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. This action simply allows Maine to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

D. Executive Order 13211 (Energy Effects)

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.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et. seq.* 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 not-for-profit enterprises, and small governmental entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.94 do not create any new requirements but simply allows the state to implement and enforce permit terms in place of federal requirements that the EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector.

This Federal action allows Maine to implement equivalent alternative requirements to replace pre-existing requirements under Federal law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of 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**. This rule is not a

''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 13, 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, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 23, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

Title 40, chapter I, 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 E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(19) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(19) Maine.

(i) [Reserved]

(ii) Maine Department of Environmental Protection (ME DEP) may implement and enforce alternative requirements in the form of title V permit terms and conditions for Lincoln Pulp and Paper, located in Lincoln, Maine, for subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry. This action is contingent upon ME DEP including, in title V permits, terms and conditions that are no less stringent than the federal standard and have been approved by EPA. In addition, the requirement applicable to the source remains the federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

* * * * *

[FR Doc. 02–17698 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7525]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual change) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

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

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

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

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

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

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

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10,

Environmental Consideration. No environmental impact assessment has been prepared.

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

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Lee	City of Auburn	May 28, 2002, June 4, 2002, *Opelika-Auburn News*.	The Honorable Bill Ham, Jr, Mayor of the City of Auburn, 144 Tichenor Avenue, Auburn, Alabama 36830.	May 20, 2002	010144 E
Jefferson	Unincorporated Areas.	May 17, 2002, May 22, 2002, *The Birmingham News*.	Mr. Gary White, President of the Jefferson County Commission, Courthouse, Room 680A, 716 Richard Arrington Jr. Boulevard North, Birmingham, Alabama 35203.	Aug. 21, 2002	010217 E
Mobile	Unincorporated Areas.	Apr. 17, 2002, Apr. 24, 2002, *Mobile Register*.	Mr. Joe W. Ruffer, Director of Public Works, Mobile Government Plaza, 205 Government Street, Mobile, Alabama 36604–1600.	Apr. 10, 2002	015008 J
Arizona: Maricopa	City of Tempe	May 1, 2002, May 8, 2002, *Arizona Republic*.	The Honorable Neil G. Giuliano, Mayor of the City of Tempe, P.O. Box 5002, Tempe, Arizona 85280.	Aug. 6, 2002	040054 G&F
Connecticut:					
Hartford	Town of Berlin	Apr. 26, 2002, May 3, 2002, *The Herald*.	Ms. Bonnie Therrien, Manager of the Town of Berlin, Town Hall, 240 Kensington Road, Berlin, Connecticut 06037.	Apr. 15, 2002	090022 D
Fairfield	City of Stamford	May 10, 2002, May 17, 2002, *The Stamford Advocate*.	The Honorable Dannel P. Malloy, Mayor of the City of Stamford, 888 Washington Boulevard, 10th Floor Government Center, Stamford, Connecticut 06904.	Apr. 23, 2002	090015 C&D
Florida					
Volusia	City of Ormond Beach.	Mar. 27, 2002, Apr. 3, 2002, *News-Journal*.	The Honorable Carl Persis, Mayor of the City of Ormond Beach, P.O. Box 277, Ormond Beach, Florida 32175–0277.	Apr. 16, 2002	125136 G
Osceola	Unincorporated Areas.	Feb. 8, 2002, Feb. 15, 2002, *Osceola Sentinel*.	Mr. Robert Fernandez, Osceola County Manager, 1 Courthouse Square, Suite 4700, Kissimmee, Florida 34741–5488.	Dec. 7, 2001	120189 F
Polk	Unincorporated Areas.	May 21, 2002, May 28, 2002, *The Ledger*.	Mr. Kim W. Keene, Polk County Manager, 330 West Church Street, P.O. Box 9005, Drawer CA01, Bartow, Florida 33831–9005.	May 14, 2002	120261 F
Georgia: Fulton	City of Alpharetta	Mar. 28, 2002, Apr. 4, 2002, *The Revue & News*.	The Honorable Charles E. Martin, Mayor of the City of Alpharetta, City Hall, Two South Main Street, Alpharetta, Georgia 30004.	Mar. 21, 2002	130084 D
North Carolina:					
Wake	Town of Cary	Apr. 23, 2002, Apr. 30, 2002, *The News and Obvserver*.	The Honorable Glenn Lang, Mayor of the Town of Cary, P.O. Box 8005, Cary, North Carolina 27512.	July 30, 2002	370238 D
Durham	City of Durham	June 4, 2002, June 11, 2002, *The Herald-Sun*.	The Honorable William V. Bell, Mayor of the City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701.	Sept. 10, 2002	370086 G

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Durham	Unincorporated Areas.	June 4, 2002, June 11, 2002, *The Herald-Sun*.	Mr. Michael M. Ruffin, Durham County Manager, 200 East Main Street, 2nd Floor, Durham, North Carolina 27701.	Sept. 10, 2002	370085 G
Lee	City of Sanford	Apr. 18, 2002, Apr. 25, 2002, *Sanford Herald*.	The Honorable Winston C. Hestor, Mayor of the City of Sanford, P.O. Box 3729, Sanford, North Carolina 27331–3729.	July 25, 2002	370143 B
Pennsylvania: Montgomery.	Borough of Emsworth.	May 29, 2002, June 5, 2002, *The Citizen*.	The Honorable Keith Johnston, Mayor of the Borough of Emsworth, 171 Center Avenue, Pittsburgh, Pennsylvania 15202.	Sept. 4, 2002	420034 D
Puerto Rico	Commonwealth	May 31, 2002, June 7, 2002, *The San Juan Star*.	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, Office of the Governor, P.O. Box 9020082, San Juan, Puerto Rico 00901.	Sept. 6, 2002	720000 E
South Carolina: Lexington.	Unincorporated Areas.	Apr. 19, 2002, Apr. 26, 2002, *The State*.	Mr. Bill Banning, Council Chairman, 212 South Lake Drive, Lexington, South Carolina 29072.	July 26, 2002	450129 G
Tennessee:					
Davidson	Metropolitan Government of Nashville.	Feb. 8, 2002, Feb. 15, 2002, *The Tennessean*.	The Honorable Bill Purcell, Mayor of the Metropolitan Government of Nashville and Davidson County, 107 Metropolitan Courthouse, Nashville, Tennessee 37201.	May 17, 2002	470040 F
Davidson	City of Oak Hill	Feb. 8, 2002, Feb. 15, 2002, *The Tennessean*.	The Honorable Warren Wilkerson, Mayor of the City of Oak Hill, 5548 Franklin Road, Suite 102, Nashville, Tennessee 37220.	May 17, 2002	470351 F
Virginia:					
Augusta	Unincorporated Areas.	May 28, 2002, June 4, 2002 *The Daily News Record*.	Mr. Patrick J. Coffield, Augusta County Administrator, P.O. Box 590, Verona, Virginia 24482–0590.	Sept. 3, 2002	510013 B
Loudoun	Town of Leesburg	May 15, 2002, May 22, 2002, *Loudoun Times Mirror*.	The Honorable B.J. Webb, Mayor of the Town of Leesburg, 25 West Market Street, P.O. Box 88, Leesburg, Virginia 20178.	Aug. 21, 2002	510091 D
Loudoun	Unincorporated Areas.	May 15, 2002, May 22, 2002, *Loudoun Times Mirror*.	Mr. Kirby Bowers, Loudoun County Administrator, 1 Harrison Street, SE., 5th Floor, P.O. Box 7000, Leesburg, Virginia 20177–7000.	Aug. 21, 2002	510090 D
Loudoun	Unincorporated Areas.	May 22, 2002, May 29, 2002, *Loudoun Times Mirror*.	Mr. Kirby Bowers, Loudoun County Administrator, 1 Harrison Street, SE., 5th Floor, P.O. Box 7000, Leesburg, Virginia 20177–7000.	May 6, 2002	510090 D

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

Dated: July 2, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–17278 Filed 7–12–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–2000–6940]

RIN 2127–AI01

Anthropomorphic Test Devices; Hybrid III 5th Percentile Female Test Dummy, Alpha Version; Final Rule; Response to Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of the final rule that adopted design and performance specifications for a new dummy whose height and weight are representative of a fifth percentile female adult. That final rule was published on March 1, 2000. Adopting the dummy was the first step toward using the dummy to evaluate the safety of air bags for small-statured adults and teenagers. The petitions are granted in part and denied in part. The agency also discovered several minor discrepancies in the drawings package and is correcting those errors in this document.

DATES: The amendments made in this final rule are effective September 13, 2002. If you wish to submit a petition for reconsideration for this rule, your

petition must be received by August 29, 2002.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues, Stan Backaitis, Office of Crashworthiness Standards at 202–366–4912. For legal issues, Dion Casey, Office of the Chief Counsel, at 202–366–2992. Both officials can be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Availability of Drawings and PADI Document: The drawings and specifications package and the PADI (Procedures for Assembly, Disassembly, and Inspection) Document referred to in this final rule are available for viewing and copying at the DOT Docket's public area, located at Plaza 401, 400 Seventh Street, SW, Washington, D.C. 20590. Copies of these documents are also available from Reprographic Technologies, 9107 Gaither Road, Gaithersburg, MD 20877, (301) 419–5070. These documents may be downloaded from the DOT's document management system website at http://dms.dot.gov. Click on ''Search,'' then on ''Search Form.'' Under ''Agency,'' click on ''NHTSA.'' Under ''Category,'' click on ''Rulemaking.'' Under ''Subcategory,'' click on ''Crashworthiness Drawings and Test Equipment Specifications.'' Then click on ''Search'' and select the desired file.

Table of Contents

I. Summary of Decision

Most of the issues raised in the petitions were minor and involved technical changes to either the dummy specifications or to the drawing package. In response to the petitions, the agency is making the following minor changes to the dummy specifications: (1) Adding a channel frequency class specification if a rotary potentiometer is used for measuring head rotation; (2) specifying a maximum sternum displacement limit; (3) prohibiting contact between the dummy and any attachments to the test probe during a knee or thorax impact test; and (4) revising the thorax and knee test probe specifications to include provisions for mounting suspension hardware if a cable system is used for impacts, adopt a lower minimum mass moment of inertia, clarify the specification for free air resonant frequency, and add a minimum edge radius for the impact face.

NHTSA's review of the petitions and production dummies also uncovered several minor errors and discrepancies in the figures, tables, and drawings package, which are resolved in this document.

The petitioners also raised more significant issues. They requested that the agency specify a post-test calibration, narrow the temperature range for the torso flexion test, and discontinue using the Hybrid III neck for assessing neck injury criteria. The agency is denying those requests.

Further changes to the dummy will be designated as beta, gamma, etc., to assure that modifications can be easily tracked and identified. The new dummy is defined by a drawing and specification package, a new procedures document for disassembly, assembly and inspection, and performance parameters including associated calibration procedures.

II. Background

Air bag-related fatalities and injuries to small female drivers seated close to the deploying air bag in low speed crashes have raised serious concerns about the safety of certain air bag designs for this portion of the population.[1] One way to evaluate the protection provided by, and the risks associated with, air bag systems is through the use of human mechanical surrogates with a high degree of biofidelity, such as the family of Hybrid III-type crash test dummies.

On March 1, 2000, NHTSA published a final rule adopting design and performance specifications for a new dummy whose height and weight are representative of a fifth percentile female adult. (65 FR 10961). The specifications were added to 49 CFR Part 572 as Subpart O.

This new dummy (hereinafter referred to as the ''HIII–5F dummy'') is capable of accurately assessing the potential for injuries to small-statured adults and teenagers. It is especially needed to ensure that air bags protect small-statured adult females and teenage vehicle occupants in frontal crashes and to minimize the risk of injury during those crashes. The dummy will also provide a means of gathering useful information in a variety of crash environments to better evaluate vehicle safety.

The HIII–5F dummy's specifications adopted in the final rule consist of a drawing package that shows the component parts, the subassemblies, and the assembly of the complete dummy. They also specify materials and material treatment processes, where practical, for all the dummy's component parts, and specify the dummy's instrumentation and instrument installation methods. In addition, the specifications contain a manual specifying disassembly, inspection, and assembly procedures, and a parts list of dummy drawings. These drawings and specifications ensure that the dummies will vary little from each other in their construction and are capable of consistent and repeatable responses in the impact environment.

The final rule also established impact performance criteria for the HIII–5F dummy. These criteria address head, neck, and thorax impact responses. The criteria serve as calibration checks and further assure the kinematic uniformity of the dummy and the absence of

[1] Close proximity to the air bag is one of the primary factors leading to serious injury or fatality. Several factors can lead to an individual being too close to the air bag at the time of deployment, including failure to wear a safety belt. Nevertheless, very small-statured women appear to constitute the largest segment of the driver population that may not be able to sit a safe distance from the air bag, even when properly restrained. Additionally, differences in body size may lead to more severe injury for a small-statured woman than for an unrestrained, average-size male.

structural damage and functional deficiency from previous use.

Adopting the dummy is a step toward assuring the users that it is a stable and useful test device for the assessment of vehicle safety and its readiness to be used in the tests the agency conducts to determine compliance with Federal Motor Vehicle Safety Standards. The use of the HIII–5F dummy in NHTSA compliance tests is being addressed in separate rulemaking proceedings.

III. Petitions

NHTSA received petitions for reconsideration of the final rule from DaimlerChrysler; Toyota Motor Corporation; the Alliance of Automobile Manufacturers (whose members are BMW Group, DaimlerChrysler, Fiat, Ford Motor Company, General Motors, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, Volkswagen, and Volvo); First Technology Safety Systems (FTSS—a manufacturer of crash test dummies); and Robert A. Denton, Inc. (a manufacturer of crash test dummies and the load cells used in crash test dummies).

Toyota and the Alliance requested that a post-test calibration of the dummy be included in the performance specifications. A post-test calibration is an assessment of whether the dummy conforms to NHTSA specifications after it has been used in a crash test. Toyota and DaimlerChrysler recommended that the agency discontinue using the Hybrid III neck to assess neck injury criteria.

The remainder of the issues raised in the petitions are relatively minor, technical issues. All of the issues are addressed in the Discussion and Analysis section below.

IV. Discussion and Analysis

A. Post-Test Calibration

Toyota and the Alliance requested that a post-test calibration of the dummy be included in the performance specifications. Toyota and the Alliance asserted that a post-test calibration is necessary to provide an objective check of the validity of the test dummy data acquired during the test, particularly if the crash test results in an apparent non-compliance. The Alliance stated that, without a post-test calibration, ''neither a vehicle manufacturer nor a NHTSA test contractor can determine whether an apparent vehicle non-compliance is due to a test dummy anomaly during a test.''

Toyota and the Alliance previously raised the issue of post-test calibration of dummies in their comments on NHTSA's proposals to establish Hybrid III dummies for 12-month-old children, six-year-old children (HIII–6C), and three-year-old children (HIII–3C), in addition to the Notice of Proposed Rulemaking (NPRM) proposing the HIII–5F dummy. Historically, NHTSA has required that the structural properties of a dummy satisfy the specifications set out in the applicable regulation in every respect both before and after its use in any test in a Federal motor vehicle safety standard. However, in the NPRM proposing the HIII–5F dummy, the agency rejected a post-test dummy calibration provision for the following reasons:

> NHTSA is concerned that the post-test calibration requirement could handicap and delay its ability to resolve a potential vehicle or motor vehicle equipment test failure solely because the post-test dummy might have experienced a component failure and might no longer conform to all of the specifications. On several occasions during the past few years, a dummy has been damaged during a compliance test such that it could not satisfy all of the post-test calibration requirements. Yet the damage to the dummy did not affect its ability to accurately measure the performance requirements of the standard. The agency is also concerned that the interaction between the vehicle or equipment and the dummy could be directly responsible for the dummy's inability to meet calibration requirements. In such an instance, the failure of the test dummy should not preclude the agency from seeking compliance action. Thus, NHTSA has tentatively concluded that removal of the post-calibration requirement would be in the public interest, since it would permit the agency to proceed with a compliance investigation in those cases where the test data indicate that the dummy measurements were not markedly affected by the dummy damage or that some aspect of vehicle or equipment design was responsible for the dummy failure.

(63 FR 46981, 46983, September 3, 1998).

The agency believes this reasoning remains valid. Further, in their petitions for reconsideration, neither Toyota nor the Alliance provided any new information that would support the reversal of the decision not to include a post-test calibration provision. Thus, the agency is denying this part of the Alliance and Toyota petitions.

B. Neck Characteristics

1. Neck Response

Toyota expressed concern with the response of the HIII–5F dummy's neck. Toyota first expressed these concerns in its comments to the Supplemental Notice of Proposed Rulemaking updating Standard No. 208, Occupant Crash Protection, published in the **Federal Register** on November 5, 1999 (64 FR 60556).

In those comments, Toyota stated that in barrier crash testing at about 23 kph without an air bag, the HIII–5F dummy's neck extension exceeded the IARV value. However, the 50th percentile male dummy in the same test at the same speed met the injury criteria. Toyota noted that the incidence rates of cervical spine injury in the real world for a 5th percentile female-statured occupant is not significantly different from those for a 50th percentile male-statured occupant. Therefore, Toyota believed that the HIII–5F dummy's neck response was inappropriately measuring an artifact of the dummy, not the actual response that is related to the injuries that may be seen by a small statured female.

In addition, Toyota claimed to experience non-biofidelic responses of the HIII–5F dummy's neck. Toyota observed a large flexion moment when the dummy's head was slightly extended rearward, and a large extension moment when the dummy's head was slightly flexed forward and the rotational angle of the head was very small. Toyota stated that this indicated the existence of a neck artifact in the HIII–5F dummy.

Due to these concerns, Toyota recommended that the dummy not be used to measure any neck injury criteria associated with the neck extension bending moment until these issues are resolved.

DaimlerChrysler argued that the current biomechanical flexion and extension response corridors of the Hybrid III dummy neck are not applicable to air bag loading. DaimlerChrysler stated that the biomechanical response corridors for the Hybrid III neck were developed based on inertial loading (whiplash loading of seat belt-restrained occupants) of the head-neck rather than direct impact loading by the deploying air bag. DaimlerChrysler claims that impact loading of the head-neck is significantly different because the Hybrid III neck bends in a second-mode, in contrast to the first-mode of bending associated with inertial loading. In this second-mode of bending, the dummy's neck produces substantial moments with very little observed rotation between the head and chest, which places the neck response outside the established biomechanical design corridors. DaimlerChrysler stated that a relaxed human neck cannot produce a resistance moment without significant rotation of the head. Thus, DaimlerChrysler claimed, the dummy's neck is not biofidelic for air bag loading, and the responses can be considered an artifact of current Hybrid III dummy neck design not relevant for assessing human injury. DaimlerChrysler

recommended that the agency cease using the HIII–5F dummy to assess neck injuries.

NHTSA agrees that the biomechanical corridors for the Hybrid III neck were based on the inertial loading response of human heads with respect to their torso. However, this does not invalidate the design and use of the neck in other impact applications. Paragraph 4.5.3 of SAE document J885, July 1986, titled ''Human Tolerance to Impact Conditions as Related to Motor Vehicle Design'' reads:

> * * * the neck can be injured without exceeding its static angular range of motion. * * * Measures of the neck loads may be a better indicator of injury potential [than angular rotation].

The agency disagrees with DaimlerChrysler's claim that a relaxed human neck cannot produce a resistance moment without significant rotation of the head. The agency believes that this statement is incorrect for several reasons.

First, to hold the head upright, activation of the cervical musculature is required. Dynamic loading of this activated musculature would produce high visco-elastic reaction forces. In real-world crashes, it is also reasonable to expect that most occupants who see an impending collision may activate additional neck muscles to brace themselves. The Hybrid III dummy neck reflects these reactions by incorporating a stiffness equivalent to 80% muscle tone in its design.

Second, NHTSA's Vehicle Research and Test Center (VRTC) conducted informal tests with several human volunteers and special tests with HIII–5F dummies [2] to determine the average resistance that the neck can generate before noticeable head rotation is observed. Male and female volunteers were loaded at the chin in the inferior-superior direction. Moments were calculated at the level of the occipital condyle before noticeable head rotation was observed. The average female volunteer produced a neck moment of 6.4 to 7.7 Nm at the level of the occipital condyle. The average male volunteer produced a neck moment of 12.2 to 15 Nm. Test results suggested that, before noticeable head rotation has occurred, the moments generated by the female volunteers at the occipital condyle level and those measured by the HIII–5F dummy neck were approximately the same. The measured human moment resistance values are probably at the lower end of the resistance spectra since the volunteers were tested for normal resistance to head motion rather than at a pain-producing level. In addition, the tests were conducted under nearly static loading conditions. Dynamically, visco-elastic properties of the neck structure would be expected to generate a higher resistance to impact-induced motion, and thus a larger moment, with little observable head rotation. These informal tests revealed that the human neck can provide resistance to bending moments at the level of the occipital condyle. Similarly, the moments that the Hybrid III dummy neck produces with little head-to-torso rotation are a reasonably accurate representation of what the total human neck experience would be.

Third, at high loading rates (as generated by air bags), the rotational inertial resistance of the head may be large. In a series of tests using small female cadavers in the driver ISO 2 position, angular accelerations of the head reached a peak of 8000 rad/sec ^{2} at 10 ms with little rotation of the head. If the moment of inertia of the head were approximately 0.0155 kg-m/sec ^{2}, the equivalent resistive moment due to inertia at that point in time would be about 125 Nm.

Thus, the facts do not support the DaimlerChrysler argument that the head of the human is free to rotate about the occipital condyle without any resistance under high speed impact conditions. Under a high loading rate and in the presence of partially activated cervical musculature, the human neck can experience large, short duration extension moments in the presence of small angular rotations of the head. Thus, the agency does not believe that the measured forces and moments are an artifact of the dummy.

Fourth, preliminary analysis using modeling techniques has shown that, for an air bag loading to the head and neck, the initial rotation of the head with respect to the chest does not change significantly as the stiffness of the occipital condyle and neck elements are changed. That is to say, in a global sense, the dummy and human necks interact with the deploying air bag in approximately the same way and produce similar kinematics and total loads in the neck. However, at the local level, particularly at the occipital condyle joint, the forces and moments may be somewhat different for the dummy and human neck due to stiffness differences. These forces and moments may be lower than those measured by the dummy due to the lower stiffness of the human spine. However, the critical values for Nij (neck injury criteria formula, found in Standard No. 208, to evaluate neck injury) have already been adjusted to account for this.

Finally, in pendulum impacts to the underside of the chin, the neck is forced into tension-type stretching and extension bending. Within a few milliseconds, the load cells in the upper neck register a large moment. Similarly, a human, under similar impact loading conditions, would have a high probability of fatal injuries, primarily at the upper portion of the neck. The NHTSA Special Crash Investigations (SCI) files, as of January 2002, show a total of twenty-six females with serious or fatal neck injuries due to deploying air bag exposures. Nineteen of these were caused by injuries to the upper neck segments. Only one of the twenty-six clearly showed a failure at the bottom of the cervical spine, while the remaining six showed massive blunt injuries, fractures of cervicals, transactions, etc., that were difficult to assign to any specific section of the neck. SCI describes a typical unrestrained occupant injury when the occupant gets too close to the air bag [3] as follows:

> Upon impact, the air bag deploys into the out-of-position adult passenger's neck and head. As the air bag expands, it results in the rapid translation and extension of the air bag underneath the chin against the neck and then wrapping upward from ear to ear. The occupant's head is effectively lifted upward off the neck resulting in an atlanto-occipital joint fracture (C1–C2) and transection of the spinal cord, and probable brain stem injuries.

The agency notes that only two additional small female (adult occupant category up to a height of 5 feet 4 inches) neck injuries were added to the SCI data files between March 2000 and January 2002. One injury was sustained in a 1990 model year vehicle, and the other in a 1994 model year vehicle. To the present time, the SCI data contain no neck injuries of small females in vehicles of post-1997 model years.

In summary, the agency believes that the current Hybrid III neck is appropriate for use in both inertial and impact loading scenarios to assess the risk of injury. Further, the compensation

[2] See report titled ''Impact Loading to the Chin of the Hybrid III Small Female Dummy Head and Neck System,'' September 27, 2000, submitted to Docket No. NHTSA–2000–6940.

[3] August ''Chip'' B. Chidester & Thomas A. Roston, ''Air Bag Crash Investigations,'' NHTSA, Paper No. 246, ESV Conference Proceedings, Amsterdam, Netherlands (June 2001).

[4] See report titled ''Evaluation of Neck Wrap and Skin Modifications for the Hybrid III Small Female Dummy,'' August 1998, submitted to Docket No. NHTSA–98–4283.

[3] August ''Chip'' B. Chidester & Thomas A. Roston, ''Air Bag Crash Investigations,'' NHTSA, Paper No. 246, ESV Conference Proceedings, Amsterdam, Netherlands (June 2001).

factors associated with the current Nij critical values account for the higher forces and moments measured in the dummy due to stiffness differences between the dummy and human necks. Accordingly, the agency is denying this part of the Toyota and DaimlerChrysler petitions.

2. Neck Injury Criteria

DaimlerChrysler argued that neck tension alone is the most accurate predictor of injury assessment. DaimlerChrysler stated that the absence of moment as an effective injury predictor may be due to the inability of the Hybrid III dummy family to accurately simulate human neck moment response to the type of loading seen in air bag deployment tests. Thus, DaimlerChrysler recommended that the agency cease using the HIII–5F to assess neck injuries.

DaimlerChrysler submitted similar comments on the advanced air bag (Standard No. 208) Supplemental Notice of Proposed Rulemaking (SNPRM) and NPRM. NHTSA responded to these comments in the final rule on advanced air bags. The agency stated that the biomechanical tests used to reach the conclusion that tension alone is the most accurate predictor of injury were limited to one loading mode of out-of-position testing. In a vehicle environment, the neck is subject to many loading modes, including compression, flexion, extension, lateral bending, and torsion. Biomechanical data have shown that these other loading modes are in fact injurious to the neck. Thus, the agency has chosen to adopt more comprehensive neck injury criteria in the standard.

Further, the biomechanical community addressed the load and moment relationship to injury and came to the consensus judgment that both moments and forces (shear, tension, and compression) are needed for injury assessment purposes. Members of the Alliance and the international automobile importers appear to agree with that conclusion. Also, analysis by NHTSA SCI of occupant injuries in air bag deployment crashes clearly indicates that more than one injury mechanism is involved in neck trauma. Thus, all of the forces and moments must be considered to assure the occupant's safety.

Finally, the agency reviewed the data provided by DaimlerChrysler from a series of out-of-position tests with the HIII–5F dummy. DaimlerChrysler provided data on three types of air bag-to-head interactions with the HIII–5F dummy positioned close to the passenger air bag. DaimlerChrysler characterized the three different interaction patterns in the following manner: (1) The air bag directly loading the head in the fore-and-aft direction pushes the chin of the dummy downward (flexion) and backwards; (2) the air bag ''trapped under the chin'' pushes the chin upward (extension) and backwards; and (3) the air bag fabric, entrapped in the hollow area between the neck and the jaw, pushes the head upward (extension) and forward.

The agency's review of the data from these tests indicates that dummy and the Nij criteria appear to accurately distinguish injurious from non-injurious loading patterns. For case one, the agency agrees with DaimlerChrysler's description of contact with the air bag on the front of the face at the chin. The applied force of the deploying air bag causes flexion of the head/neck and backwards loading of the head relative to the neck. This loading pattern of low to moderate flexion at the upper cervical spine does not appear to be associated with the type of air bag related neck injuries reported by SCI. The Nij for DaimlerChrysler's case one was 0.7 tension-flexion. The agency believes that the Hybrid III dummy and the Nij injury criteria correctly identify this as a non-injurious mode of interaction.

For case two, DaimlerChrysler characterized the interaction as ''air bag trapped under the chin'' of the dummy. The agency believes that interaction of the expanding air bag with the under surface of the chin is very similar to the injury patterns seen in SCI cases with upper cervical tension-extension type injuries. The Nij for this case was 2.9 tension-extension. The agency believes that the Hybrid III dummy and the Nij injury criteria correctly identify this as a potentially harmful mode of interaction.

For case three, DaimlerChrysler claimed that air bag fabric was entrapped in the hollow area between the neck and jaw. In this third loading mode, the air bag expands in a wedge-like manner, pushing the neck backwards and at the same time pushing the head upward and dragging it forward along the undersurface of the chin. As with case two, the agency believes that interaction of the expanding air bag with the under surface of the chin is very similar to the injury patterns seen in SCI cases with upper cervical tension-extension type injuries. Further, the addition of a significant direct shear loading to the anterior surface of the neck in case three creates an even greater probability of this loading mode being harmful to humans. The shear loads measured in this third loading mode are more than 5000 N, which are much higher than the injury assessment reference value (IARV) of 3100 N used in the Standard No. 208 sled test and by industry as an IARV for shear load. Although the shear load is not directly included in the Nij formulation, the high shear load along with the tension loads causes the large extension moments which result in an Nij failure with a value of 4.5 in tension-extension. The agency believes that the current Hybrid III dummy neck and the Nij injury criteria correctly identify this as a potentially harmful human mode of interaction.

Examination of vehicle crash data with the HIII–5F dummy seated in the full forward position (at 30 mph into a flat, rigid barrier) suggested that the first two modes of interaction described by DaimlerChrysler are common. Loading mode one results in lower values of Nij, while loading mode two results in higher values of Nij. However, case three, where the load applied by the air bag pulls the head forward, was not observed in vehicle crash tests. Based on the calculated external shear and axial forces applied by the air bag, there were no cases of high shear forces pulling the head forward. Review of the films from these tests indicated that for the low driver Nij cases, the air bag appeared fully or nearly fully deployed upon contact with the occupant's head. There was no contact or only glancing contact with the anterior surface of the dummy neck. In contrast, review of the films for cases with high driver Nij values showed clear interaction of an inflating air bag with the underside of the dummy's chin and neck, as evidenced by chalk transfers onto the air bag fabric, visible folds of the air bag located under the chin, and inflation around the dummy's chin resulting in a dumbbell-type appearance of the air bag. These vehicle crash test data support the appropriateness of the Hybrid III neck and the Nij criteria for identifying injurious air bag loading patterns.

In summary, the agency believes the current neck and Nij are appropriate, sufficient, and needed for the intended purpose. The neck has sufficient sensitivity to objectively differentiate between deploying air bag systems that are inherently safe and those that are unsafe for the small occupant.

Accordingly, NHTSA is denying this part of the DaimlerChrysler petition. The agency will continue to use the current Hybrid III neck and Nij criteria as published in the HIII–5F final rule. However, the agency will conduct further review of out-of-position test data and compare them with SCI cases to determine if there are any loading

scenarios that could cause high occipital condyle moments and high Nij's without producing harmful neck injuries.

3. Neck Shield

The Alliance noted that the HIII–5F dummy final rule does not contain a neck skin or neck shield for the dummy. The Alliance stated that without a neck skin or shield, a deploying air bag may get caught on the head-neck structure of the dummy, raising concerns about the validity of the forces and moments being recorded.

The Alliance also noted that the SAE Hybrid III Dummy Family Task Group has evaluated a variety of neck skin concepts. The Task Group has agreed that a neck skin is preferable to no neck skin. Currently, the Task Group is evaluating the effects of various neck skin designs.

Accordingly, the Alliance recommended that the agency add a neck skin to the HIII–5F dummy. The Alliance recommended that the agency choose a neck skin type to avoid compliance issues over neck force-moment measurements because several of its member companies are currently developing their advanced restraint systems using the HIII–5F dummy fitted with different types of neck skin.

DaimlerChrysler conducted a series of static air bag deployment tests to investigate the loading of the head and neck of the HIII–5F dummy during air bag deployment. DaimlerChrysler observed that the SAE recommended head skin and neck shield did not prevent the air bag from being trapped under the chin or behind the jaw of the dummy.

To eliminate this artifact, DaimlerChrysler modified the dummy using two approaches. In its first approach, DaimlerChrysler used a modified head/neck skin. Using neck parts from the Hybrid II 50th percentile male dummy, additional skin and rubber, and a head skin from the HIII–5F dummy, DaimlerChrysler formed a neck surface that extended from the jaw to the upper torso. This modification prevented the air bag from snagging under the chin or behind the jaw and produced an insignificant change in the pendulum extension test. In addition, the moment and rotation responses were within the specified biomechanical extension corridor. However, DaimlerChrysler believed that the flexion response would be compromised due to the bridge effect between the neck skin and the upper torso jacket.

In its second approach, DaimlerChrysler added a pair of aluminum patches to the notch area of the head. This modification prevented the air bag from snagging behind the jaw, but not from under the chin. It did not affect the flexion and extension responses in the standard pendulum calibration tests.

Before issuing the NPRM and final rule for the HIII–5F dummy, NHTSA made an exhaustive effort to evaluate a variety of neck shields.[4] The agency was unable to produce any evidence that neck shields could effectively and consistently reduce some of the high moments associated with aggressive air bags. Thus, the agency did not specify a neck shield for the HIII–5F dummy. The agency remains unconvinced that neck shields will be able to have such effects.

In its petition, DaimlerChrysler noted that it has produced two head-neck shield modifications which prevented the air bag from getting caught under the dummy's chin or behind its jaw. DaimlerChrysler provided a picture of a modified Hybrid II head and an accompanying neck cover without indicating what neck was used for that installation. Inasmuch as the head is not of a Hybrid III dummy, the shield modification for that head may not provide any insight as to the effectiveness of such a modification for the Hybrid III dummy. The agency notes that DaimlerChrysler admitted that one of its neck shield designs might compromise the neck flexion response due to bridge effects between the neck skin and the upper torso jacket, and that the other design did not prevent the air bag from getting caught under the chin.

Based on observations of dummy interactions with deploying air bags and real-world neck injury patterns to small females from Special Crash Investigations photos, the agency believes that the Hybrid III head/neck without the neck skin produces sufficiently realistic interactions with the deploying air bag to indicate either beneficial or overly aggressive effects of the air bag on the human occupants it is designed to protect. Moreover, the agency notes that the petitioners have not provided any feasible suggestions on what type of neck shield they would support to improve its alleged shortcomings. Accordingly, the agency is denying this part of the Alliance and DaimlerChrysler petitions.

4. Pendulum Pulse for Neck Flexion/Extension

Table B of § 572.133 specifies the pendulum pulse for neck flexion and extension. The Alliance and FTSS noted that the table contains a typographical error: the column headings ''Extension'' and ''Flexion'' are reversed. The Alliance and FTSS recommended that the agency correct this error.

NHTSA agrees with this recommendation. Accordingly, the agency is switching the order of the ''Extension'' and ''Flexion'' column headings.

C. Torso Flexion Test

Section 572.135 specifies procedures for the torso flexion test. The temperature range for the test is specified at 66 to 78 degrees F. The Alliance and FTSS stated that this range is too wide and could result in test variability because of the sensitivity of the dummy materials to temperature. The Alliance noted, for example, that the dummy's lumbar spine should be maintained at 69 to 72 degrees F for proper behavior. The Alliance and FTSS recommended that the agency change the temperature range specification to 69 to 72 degrees F to be consistent with other dummy component tests.

To determine whether there is a need for a narrower temperature range in torso flexion tests, NHTSA's Vehicle Research and Test Center (VRTC) performed two series of temperature sensitivity tests on the HIII–3C dummy: one at a temperature range between 66 and 78 degrees F, and the other between 69 and 72 degrees F. In both series of tests, the average resistance force to flexion was slightly higher at the lower temperature.[5] However, the test results also indicated a resistance force difference of less than 2 pounds over the full temperature range for both series. In addition, plots of force vs. angle showed a very consistent and uniform slope with considerable overlap of measurements over the entire range of temperatures tested, indicating that temperature is not a significant factor. Based on these test data, VRTC concluded that variations in temperature have virtually no influence on the test results due to torso flexion in a crash test.

Although these tests were performed with the HIII–3C dummy and not the HIII–5F dummy, the agency believes that the similarities of design and test methods between the HIII–3C and HIII–5F dummies would lead to the same temperature sensitivity conclusions for the HIII–5F dummy.

To address the petitioners' concern with the ''consistency'' of temperature specifications, the agency has reviewed

[4] See report titled ''Evaluation of Neck Wrap and Skin Modifications for the Hybrid III Small Female Dummy,'' August 1998, submitted to Docket No. NHTSA–98–4283.

[5] The test results can be found in Docket No. NHTSA–2000–7051.

all temperature ranges for crash test dummies currently specified in 49 CFR Part 572. Except for the Hybrid III neck and thorax, all specifications for Hybrid II, Hybrid III, and side impact (SID) dummies call for a test temperature range of 66 to 78 degrees F. The narrower temperature specification (69 to 72 degrees F) for the Hybrid III neck and thorax is due to a greater temperature sensitivity of these components, which highly influences the head kinematics and chest compression in crash tests. However, impact responses of the head, torso flexion, and femurs are not sensitive to temperature variations in the 66 to 78 degrees F range, and therefore allow a wider temperature spread. Thus, specifying a narrower temperature range exclusively for the torso flexion test for the HIII–5F dummy would create an inconsistency with respect to all other dummy torso flexion tests in Part 572.

Moreover, to change the temperature specifications to a narrower range for dummies that already have a temperature specification of 66 to 78 degrees F, the agency would have to initiate rulemaking to determine the desirability of such a change. The agency notes that there are a number of dummy users, other than the petitioners, who may neither see a need for nor want to have a narrower temperature range specification. Some test facilities do not have the torso flexion test fixtures set up in a tight temperature control environment. These facilities would have to make capital expenditures to accommodate a narrower range specification.

In addition, the agency would have to provide a rationale for narrowing the temperature specification. Inasmuch as VRTC could not show a need for a narrower temperature range, and the petitioners have not provided data that would support the need for such a change, the agency would not be able to justify the requested revision.

In view of these considerations, the agency is denying this part of the Alliance and FTSS petitions.

D. Thoracic Peak Force Criterion

Section 572.134 specifies the thorax assembly and test procedure. Paragraph (b)(1) specifies the maximum sternum displacement relative to the spine (compression) and the peak force within this specified compression corridor. The last sentence of that paragraph specifies:

> The peak force after 18.0 mm (0.71 in) of sternum displacement but before reaching the minimum required 50.0 mm (1.97 in) sternum displacement limit shall not exceed by more than five percent the value of the peak force measured within the required displacement limit.

FTSS stated:

> We have studied fourteen thorax calibration tests of seven FTSS 5th female dummies manufactured to date, and while the majority of the dummies pass the 5% requirement, we are unable to see a relationship between the 18 mm to 50 mm peak force and the maximum deflection force that would justify a fractional limit. For this reason, we suggest that an absolute peak force limit between 18 mm and 50 mm would be more appropriate and this force limit should be 5% higher than the maximum peak force limit, rounded to the nearest 100 N.

FTSS requested that the peak force be specified as an absolute value rather than a percentage. FTSS recommended that the last sentence of paragraph (b)(1) be revised to read:

> The peak force after 18.0 mm (0.71 in) of sternum displacement but before reaching the minimum required 50.0 mm (1.97 in) sternum displacement limit shall not exceed 4600 N.

The HIII–5F final rule states that peak force during the displacement interval of 50–58 mm must be within 3900–4400 N. Applying the five percent criteria specified in paragraph (b)(1) to this results in a force range of 4095–4620 N. FTSS's recommended limit of 4600 N is basically the same as the limit that results from applying the five percent criteria currently specified in paragraph (b)(1). Thus, the agency agrees with FTSS's recommended change.

Accordingly, the agency is revising the last sentence of paragraph (b)(1) to read:

> The peak force after 18.0 mm (0.71 in) of sternum displacement but before reaching the minimum required 50.0 mm (1.97 in) sternum displacement limit shall not exceed 4600 N.

E. Impact Pendulum Characteristics

1. Probe Definition

Section 571.137 specifies test conditions and instrumentation. Paragraphs (a) and (b) specify the geometrical and inertial properties for the thorax and knee probes, respectively. Paragraph (a) reads:

> The test probe for thoracic impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of 13.97 ± 0.023 kg (30.8 ± 0.05 lbs) and a minimum mass moment of inertia of 5492 kg–cm^2 (4.86 lbs-in-sec^2) in yaw and pitch about the CG [center of gravity]. ⅓ of the weight of the suspension cables and their attachments to the impact probe must be included in the calculation of mass, and such components may not exceed three percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 25 mm (1.0 in) long, and have a flat, continuous, and non-deformable 152.4 ± 0.25 mm (6.00 ± 0.01 in) diameter face with a maximum edge radius of 12.7 mm (0.5 in). The probe's end opposite to the impact face must have provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe shall have a free air resonant frequency of not less than 1000 Hz.

Paragraph (b) reads:

> The test probe for knee impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of 2.99 ± 0.01 kg (6.6 ± 0.022 lbs) and a minimum mass moment of inertia of 622 kg-cm^2 (0.55 lbs-in-sec^2) in yaw and pitch about the CG. ⅓ of the weight of the suspension cables and their attachments to the impact probe may be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 12.5 mm (0.5 in) long, and have a flat, continuous, and non-deformable 76.2 ± 0.2 mm (3.00 ± 0.01 in) diameter face with a maximum edge radius of 12.7 mm (0.5 in). The probe s end opposite to the impact face must have provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe must have a free air resonant frequency of not less than 1000 Hz.

The Alliance argued that the requirement in both paragraphs that the probe be symmetric about its longitudinal axis is unrealistic because the pendulum is often fitted with velocity vanes, causing asymmetry. The Alliance recommended that the agency revise the first sentence of both paragraphs to read as follows:

> The primary test probe, less any additional hardware, for [thoracic or knee] impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis.

FTSS argued that the test probe definitions are vague and overly restrictive. FTSS claimed that the test probes can be adequately defined by the geometry of the contact area with the dummy together with the mass, center of gravity (CG) location, and moments of inertia of the entire probe.

FTSS expressed concerns about the descriptions of the geometrical and inertial properties for the thorax and knee probes. FTSS stated that it is not clear what ''concentric in shape'' means because ''concentric'' means ''having the same center'' but does not define the shape of an object. FTSS echoed the Alliance's concerns about the

requirement that the probe be symmetric about its longitudinal axis. FTSS stated that the necessary addition of cable attachments and velocity vanes means this requirement cannot be met. FTSS noted that these attachments will cause the center of gravity (CG) to be slightly offset from the geometrical center of the probe. Thus, FTSS recommended that the agency specify a dimensional tolerance for the CG offset of 3.5 mm.[6]

Finally, FTSS argued that the requirement that no concentric portions of the probe exceed the diameter of the impact face is redundant because mass distribution is controlled by the mass moments of inertia (MMI) specification. Accordingly, FTSS recommended that the agency delete the sentence ''No concentric portions of the impact probe may exceed the diameter of the impact face'' from both paragraphs and replace the first sentence of both paragraphs with the following sentences:

> The test probe should be of rigid metallic construction with the geometrical and inertial properties specified below. The probe center of gravity shall lie within 3.5 mm of the longitudinal axis passing through the center of the impacting face.

NHTSA agrees with the Alliance that the test probe definition should include provisions for mounting suspension hardware if a cable system is used for guiding the impactor's trajectory. However, the agency does not agree with FTSS that the possible CG offset from the longitudinal axis is either needed or should be specified. NHTSA believes the specifications in the final rule for MMI in pitch and yaw provide sufficient controls to assure stable kinematics during the probe's free flight and impact with the dummy. Inasmuch as hardware attachments do not meet the definition of concentricity, the agency is excluding them from the concentricity requirement.

Accordingly, NHTSA is revising § 572.137(a) and (b) as specified in section E.7 below. The agency is also adding a paragraph (7) to § 572.134(c) and a paragraph (6) to § 572.136(c) disallowing any contact between hardware attached to the probe and the dummy. The agency believes this is necessary to assure that hardware attached to the probe does not interfere with the dummy. Each paragraph will read as follows:

> No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

[6] FTSS stated that they have calculated that the maximum offset will not exceed 3.5 mm.

2. Mass Moment of Inertia

Paragraph (a) of § 572.137 specifies that the test probe for thoracic impacts have a MMI of 5492 kg–cm^2 (4.86 lbs-in-sec^2) in yaw and pitch about the CG. Paragraph (b) specifies that the test probe for knee impacts have a MMI of 622 kg–cm^2 (0.55 lbs-in-sec^2) in yaw and pitch about the CG.

The Alliance stated that, for thorax impact probes used at a number of test labs, the MMI values fall below 5492 kg–cm^2. The Alliance argued that these probes were used to develop the data that formed the basis for the thorax calibration performance corridors adopted by the agency in the final rule.

The Alliance observed that a similar problem exists with the MMI specification for the test probe for knee impacts in paragraph (b). The Alliance claimed that the MMI values of knee impact probes used at a number of test labs fall below 622 kg-cm^2.

The Alliance recommended that the agency delete the MMI criteria until substantial data are available justifying its need. In the alternative, the Alliance requested that if the cylindrical pendulum described in paragraphs (a) and (b) represents the ideal test probe, and if NHTSA insists on retaining the MMI requirement, the agency change the MMI requirement to 1132.5 kg-cm^2 for the thorax test probe and 156.8 kg-cm^2 for the knee test probe.

FTSS stated that in setting the minimum MMI, ''it appears that NHTSA has used the measured values of the physical probes at it's [sic] own test laboratories without a tolerance and without an analysis of a minimum MMI that will ensure satisfactory performance.'' FTSS stated that ''these numbers are arbitrary and have not been justified.''

FTSS noted that its thorax test probe has a yaw MMI of 5320 kg-cm^2 and a pitch MMI of 5303 kg-cm^2, both of which fall below the minimum specified in § 572.137(a). FTSS stated that NHTSA has no evidence to suggest that these probes do not provide satisfactory performance. FTSS claimed that the minimum MMI specification, as currently written, will force a re-design of the probe and obsolescence of existing probes without evidence that the design is inadequate. FTSS recommended that the MMI specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

NHTSA specified the test probes in generic terms in response to industry comments on the NPRM for the HIII–5F dummy stating that the probe needs to be generic in specification and that the users desire to make them from building blocks, essentially, an assembly of multiple pieces. The commenters also requested that NHTSA not specify the probe by design. NHTSA agreed with this objective but noted that any probe that cannot be specified by design must be specified by engineering parameters, which are mass, stiffness, MMI, CG location, and resonance of the probe's structure. As a result, the agency accepted the commenters' desire for a generic probe and specified the probe in engineering terms.

However, assembling probes from multiple pieces may result in compositions taking many configurations and wide variations of the MMI in yaw and pitch. These wide variations are evident in the Alliance's petition, in which it noted that its member companies have used different probes with MMIs ranging from 4114 to 5320 kg-cm^2 (calculated) for thorax test probes and from 209 to 331 kg-cm^2 (measured) for knee test probes.

To determine the effects on kinematics of low and high inertia test probes, the agency studied the kinematics of a probe with a considerably lower MMI than specified in § 572.137 and compared that with the kinematics of the NHTSA probe having a much higher MMI. The evaluation revealed that the low inertia probe experienced considerable motion instability. In contrast, the agency probe with the MMI specified in the final rule exhibited very stable free flight kinematics. This experiment shows that the use of probes with low MMIs could lead to unstable kinematics. Inasmuch as the response of the dummy in calibration tests is used as a measure of the dummy's repeatability and objectivity, it is important that the test probe kinematics at and during the impact with the dummy not be a source of variability.

In its petition, the Alliance included a table with actual inertia values of test probes used by the industry for both thorax and knee calibrations. The agency believes that these values reflect current industry practice, and, therefore, these are reasonably good grounds for their acceptance. In contrast, the calculated probe values, which are considerably below the inertia values currently used by the industry, have never been evaluated for kinematic stability as used in the specified tests.

As a result, the agency is accepting as the minimum MMI for thorax test probes the lower MMI value of 3646 kg-cm^2, and for knee test probes the lower MMI value of 209 kg-cm^2, cited by the

Alliance. Accordingly, the agency is changing the MMI specification for thorax test probes in § 572.137(a) to 3646 kg-cm^2 (3.22 lb-in-sec^2), and the MMI specification for knee test probes in § 572.137(b) to 209 kg-cm^2 (.177 lb-in-sec^2), in yaw and pitch about the CG of the probe.

Since the FTSS thorax probe, with a yaw MMI value of 5320 kg-cm^2 and a pitch MMI value of 5303 kg-cm^2, meets this specification, the agency is denying the FTSS request to hold the minimum MMI specification in abeyance for six months.

3. Free Air Resonance Frequency

Paragraphs (a) and (b) of § 572.137 both specify that the probe have a free air resonant frequency of not less than 1000 Hz.

The Alliance said that there are insufficient data to support the need for such a specification. The Alliance stated that preliminary analysis of the knee test probe conducted by FTSS demonstrates that the measured free air resonance frequency of a probe currently in use is only 662 Hz. Additional analysis conducted by DaimlerChrysler indicates that there is not frequency content sufficient to excite a resonance, thereby failing to meet the 1000 Hz requirement. Thus, the Alliance recommended that this specification be deleted until substantial data are available to justify it.

FTSS disagreed with the free air resonant frequency specification. FTSS claimed that NHTSA established it without specifying the methods to measure the frequency or providing a rationale for the need of it. FTSS stated that it has analyzed the frequency content of the probe structure used in its calibration laboratories. It said that the results showed that the probe has two primary resonant modes. The first resonant mode is bending of the probe about its CG, causing each end of the probe to translate laterally. FTSS noted that a typical accelerometer, which is mounted at the non-impacted end of the probe, has less than three percent cross-axis sensitivity. Accordingly, if the probe's first mode natural resonance were excited during a dummy test, the effect on the signal of a longitudinally oriented accelerometer would be minimal. FTSS asserted that it may be more appropriate to specify a 1000 Hz resonant frequency limit in the sensitive axis of the accelerometer. However, FTSS recommended that the free air resonant frequency specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

The agency notes that commenters on the HIII–6C and HIII–5F dummy NPRMs expressed a desire for generic probe specifications to allow users the freedom to design and build probes in a variety of ways, including constructing them from building blocks. As a result, the agency developed a generic engineering specification and inserted it in the final rules for the HIII–6C, HIII–5F, and HIII–3C dummies.

The agency believes that the resonant frequency specification is necessary for three reasons: (1) Because the intent of users is to build the probe from multiple pieces and of unspecified material, the natural resonance of the probe is the only reliable indicator to assure that the probe will be of sufficient structural rigidity and capable of repeatable response; (2) the specification will assure that a multiple piece probe will not produce separate interactions between its constituent parts; and (3) the specification will assure that the mounting structure for the accelerometer is sufficiently rigid and will not affect the accelerometer readings.

NHTSA does not agree with the Alliance comment that the resonance specification is unnecessary. A multiple piece impact probe, if improperly constructed, may contain a series of resonances along its longitudinal axis. The 1000 Hz minimum specification would preclude use of such a probe.

Moreover, in its petition, the Alliance indicated that the probe's free air resonance frequency is 662 Hz, which falls below the minimum specification of 1000 Hz. However, the agency's review of the Alliance data indicated the existence of at least two resonances: one around 800 Hz and the other around 7.5 kHz. The 800 Hz resonance is due to the first mode of beam bending around the CG of the probe. The 7.5 kHz is the second mode natural resonance of the probe along its longitudinal axis.

The agency agrees with the FTSS observation that beam bending is perpendicular to the longitudinal axis of the probe and should have little, if any, effect on the output of the longitudinally-oriented accelerometer (unless the accelerometer has a large cross axis sensitivity). In contrast, resonance along the axis of the probe is of primary interest in thorax and knee tests. NHTSA would not be concerned if the probe's resonance in the longitudinal axis of the impactor were at 7.5 kHz. This exceeds the agency's specification of 1 kHz. However, if the probe's resonance were lower than 1 kHz, it could affect the measured impact response.

NHTSA concludes that the Alliance's argument does not demonstrate the irrelevance of the minimum natural free air resonance frequency for undefined probes. Instead, the Alliance argument demonstrates that the agency should specify which resonance mode it is defining. Thus, the agency is revising the last sentence in ''572.137(a) and (b) to read:

> The impact probe has a free air resonant frequency of not less than 1000 Hz, which may be determined using the procedure listed in Docket No. NHTSA–6714–14.

4. Weight of Attachments to the Thorax and Knee Probes

Paragraphs (a) and (b) of § 572.137 both specify that one-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and that such components may not exceed three percent of the total weight of the test probe. There were no comments regarding this specification. However, the specifications for the HIII–3C and CRABI dummies specify that one-third of the weight of suspension cables and any attachments to the impact probe may not exceed five percent of the total weight of the test probe. To maintain consistency in specifications for the entire H–III dummy family, the agency is revising the specification in paragraphs (a) and (b) of § 572.137 to five percent of the total weight of the test probe. This change has been made as specified in section E.7 below.

5. Knee Impactor Mass Tolerance

Section 572.137(b) specifies that the test probe for knee impacts have a mass of 2.99 ± 0.01 kg (6.6 ± 0.022 lbs).

The Alliance and FTSS argued that the probe mass tolerance of ± 0.01 kg (± 0.022 lb) is not practical. The Alliance stated that some accelerometers weigh approximately 0.02 lb. FTSS stated that a mass tolerance of 0.01 kg is too small to be practically measured. Thus, the Alliance and FTSS recommended that the agency increase the tolerance to ± 0.023 kg (± 0.05 lb) to account for both slight mass deviations and additional instrumentation, such as accelerometers.

NHTSA agrees that the mass tolerance is too tight. Accelerometers used on the probe do not have to be the same as the very low mass accelerometers used on the dummy. Since the weight of some accelerometers can be as high as 0.02 lb, the agency must account for this additional variation. Accordingly, the agency is changing the mass tolerance in ±572.137(b) to ± 0.023 kg (± 0.05 lb).

6. Impact Face Edge Radius

Section 572.137(a) specifies that the edge radius of the thorax probe impact face is a maximum of 12.7 mm. Both the Alliance and FTSS stated that specifying a maximum edge radius allows for smaller radii, which could affect the probe's interaction with the dummy due to differences in initial contact area. The Alliance and FTSS recommended that the agency delete the word ''maximum''.

NHTSA agrees with these concerns. At its extreme, a maximum radius specification allows the edge of the probe face to have no radius and produce a sharp corner. Such a probe face may affect the probe's interaction with the dummy if the alignment at impact was not perfect. However, the agency does not agree with the Alliance and FTSS recommendation of specifying an exact radius. This could cause substantial tolerancing problems over even small variations of the edge radius. To overcome these concerns, the agency is adding a minimum edge radius of 7.6 mm (0.3 in) to both the thorax and knee impact probe specifications to assure that the probes will always have an edge radius that is practical to hold and will not affect the probes' interaction with the dummy.

7. Conclusion

In view of the discussion above, the agency is revising paragraphs (a) and (b) of § 572.137 to read as follows:

(a) The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.134(c)(7). The impactor shall have a mass of 13.97 ± 0.23 kg (30.8 ± 0.05 lbs) and a minimum mass moment of inertia of 3646 kg-cm^2 (3.22 lbs-in-sec^2) in yaw and pitch about the CG of the probe. One-third (⅓) of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 152.4 ± 0.25 mm (6.00 ± 0.01 in) diameter face with a minimum/maximum edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 152.4–152.6 mm (6.0–6.1 in) diameter cylindrical surface extending for a minimum of 25 mm (1.0 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe has a free air resonant frequency of not less than 1000 Hz, which may be determined using the procedure listed in Docket No. NHTSA–6714–14.

(b) The test probe for knee impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.136(c)(6). The impactor shall have a mass of 2.99 ± 0.23 kg (6.6 ± 0.05 lbs) and a minimum mass moment of inertia of 209 kg-cm^2 (0.177 lb-in-sec^2) in yaw and pitch about the CG of the probe. One-third (⅓) of the weight of suspension cables and any attachments to the impact probe may be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 76.2 ± 0.2 mm (3.00 ± 0.01 in) diameter face with a minimum/maximum edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 76.2–76.4 mm (3.0–3.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe has a free air resonant frequency of not less than 1000 Hz, which may be determined using the procedure listed in Docket No. NHTSA–6714–14.

F. Instrumentation Filter Classes

1. Thorax Spine and Pendulum Accelerations

Section 572.137(m)(3)(ii) specifies CFC Class 1000 filters for conditioning the spine and pendulum acceleration signals. The Alliance and FTSS recommended that the agency change this specification to Class 180 because Class 1000 is too high for the pendulum acceleration measurement during impact with the dummy, and to remain consistent with SAE–J211.

NHTSA agrees with the Alliance and FTSS comments regarding § 572.137(m)(3)(ii). The current specification of Class 1000 is too high for the intended application and is not consistent with SAE–J211 Recommended Practice and similar specifications in the final rules for other dummies. The agency notes that it is a typographical error. Accordingly, the agency is correcting this error by revising ''572.137(m)(3)(ii) to read as follows:

(ii) Spine and pendulum accelerations—Class 180

2. Sternum Deflection

Section 572.137(m)(3)(iii) specifies the sternum deflection signal filters at Class 180. The Alliance recommended that the agency change this specification to Class 600 to remain consistent with SAE–J211.

NHTSA notes that the Class 180 specification in ''572.137(m)(3)(iii) is in line with the specification for the Hybrid III 50th percentile male dummy. The agency believes this specification is sufficient for direct chest deflection measurement. However, Class 600 data are needed if a V*C measurement is to be made. NHTSA does not require the measurement of V*C, but the agency has no objection to filtering the data to a higher CFC class since that level data is suitable for both the deflection and V*C measurements. Accordingly, the agency is revising § 572.137(m)(3)(iii) to read as follows:

(iii) Sternum deflection—Class 600

3. Lower Leg

Section 572.137(m)(6) specifies the femur forces filters at Class 600. The Alliance and FTSS recommended that the agency revise this paragraph to include a knee pendulum filter, also of Class 600, to remain consistent with SAE–J211.

NHTSA notes that currently § 572.137(m)(6) reads: ''Femur forces—Class 600.'' Since the femur force is calculated during calibration from the pendulum based accelerometer, the agency assumed it was clear that the Class 600 also applied to the impactor mounted accelerometer data. Apparently, it was not. Accordingly, the agency is revising § 572.137(m)(6) to read as follows:

(6) Femur forces and knee pendulum—Class 600

4. Neck

Section 572.137(m)(2) specifies the neck signal filters. The Alliance and FTSS noted that it does not specify a filter class for the neck test rotation potentiometers. The Alliance and FTSS recommended that the agency add a paragraph (iv) to that section to read as follows:

(iv) Rotation potentiometer—Class 60.

In § 572.137(m)(2), NHTSA did not specify use of mechanical test fixtures, including potentiometers, to measure head rotation in the specified head-neck tests. The agency believes that there are several methods of measuring this, and there is no reason why a specific method should limit the user's choice. The Alliance and FTSS recommended that the agency revise § 572.137(m)(2) to specify a channel class to provide guidance for those instances in which a rotary potentiometer is used to measure the amount of head rotation by adding:

(iv) Rotation potentiometer—Class 60.

In its petitions concerning the HIII–6C final rule, the Alliance noted that industry users appear to have reached a consensus that the Society of

Automotive Engineers (SAE) recommended practice J211 Channel Frequency Class (CFC) 60 specification is appropriate if a potentiometer is used to measure head rotation. In addition, the VRTC used the CFC 60 to filter head rotation data measured by rotary potentiometers to establish the certification requirements for the dummies. VRTC review of raw data showed absence of high frequency signals that would obviate the need for a specification greater than CFC 60.

Consequently, the agency has no objections to specifying Channel Frequency Class 60 for this application if a rotary potentiometer is used for measuring head rotation. The agency is revising ''572.137(m)(2) to add the following paragraph:

(iv) Rotation potentiometer—Class 60 (optional).

G. Sensor Specifications

The drawing package contains seven drawings that provide generic specifications for load cells used within the HIII–5F dummy. Each of these drawings specifies that the load cell electrical output/input sensitivity at capacity be 1.0 mV/V MIN.

Denton stated that many of the existing load cells that it has built for these applications have a nominal sensitivity specification of 1.0 mV/V channels. Due to manufacturing variations, load cells may have a sensitivity above or below the 1.0 mV/V level. Denton stated that many existing load cells would be rendered obsolete by this requirement. Denton argued that load cells with outputs slightly below 1.0 mV/V have functioned satisfactorily in these applications for many years. Denton also stated that NHTSA did not provide any data to justify this requirement. Thus, Denton requested that this specification be changed to 0.75 mV/V MIN.

NHTSA is granting Denton's request. The agency notes that this change is nominal and will have no detrimental effects on the quality of the resulting data channel. Accordingly, the agency is changing this specification in Drawings SA572–S11, SA572–S14, SA572–S15, SA572–S29, SA572–S16–L&R, SA572–S27, and SA572–S28 from 1.0 mV/V MIN to 0.75 mV/V MIN.

Drawing SA572–S15 for the Small Female Lumbar Spine Load Cell specifies 5000 Hz as the minimum free air resonance specification. It also specifies that the lumbar load cell force measurement use a Channel Frequency Class (CFC) of 1000.

Denton requested that the agency change the free air resonance specification to 3000 Hz. Denton stated that the measured free air resonance of its load cell is below 5000 Hz and that it has functioned well for years. Denton argued that if the agency did not change this specification, many, if not all, existing lumbar spine load cells currently in use would be rendered obsolete.

Denton also requested that the agency change the CFC specification to Class 600 for data signals generated by the lumbar load cell. Denton noted that there is no rationale for the Class 1000 specification for the force measurement and that it was chosen by default. Denton stated that it is extremely unlikely that any forces or moments will come even close to exceeding Class 600 because the top of the load cell is attached to a rubber lumbar spine, and the lumbar spine will be unable to transmit high frequencies.

NHTSA is granting both of Denton's requests. As Denton noted, the agency chose the minimum free air resonance specification and CFC by default. Accordingly, the agency is revising Drawing SA572–S15 by changing the minimum free air resonance specification from 5000 Hz to 3000 Hz and changing the lumbar force CFC classification from Class 1000 to Class 600.

H. Drawings, Figures, and PADI Document

The Alliance and FTSS found several errors in Figures O1, O2, and O3. Denton noted several specification errors in Drawing SA572–S14. In the process of inspecting production dummies, the VRTC noted additional dimensional discrepancies in three of the dummy drawings. The agency believes that these discrepancies are of little consequence to the dummy functioning but must be adjusted to reflect the dummies being built with production equipment. In this document, the agency is correcting the errors in these drawings.

1. Figures O1, O2, O3, O4, and O5

The Alliance noted that Figure O1 (*Neck Flexion Test Setup Specifications*) is missing the label for the lower neck-adjusting bracket. The Alliance also noted that the second label for the neck-adjusting bracket in Figure O2 (*Neck Extension Test Setup Specifications*) is incorrect. It should read: ''BRACKET—NECK ADJUSTING—UPPER (P/N 880105–207).''

The Alliance and FTSS noted that some of the language in Figure O3 (*Thorax Impact Test Setup Specifications*) does not conform to the language in the final rule text. Specifically, the Alliance and FTSS recommended that the agency change the tolerance for the test probe alignment from ± 0.05 degrees to ± 0.5 degrees, and the tolerance for the impact probe weight from ± 0.01 kg (0.02 lb) to ± 0.023 kg (0.05 lb) to conform to the text of the final rule. Finally, the Alliance and FTSS stated that Figure O3 does not contain a pelvic angle measurement. They noted that the Society for Automotive Engineers (SAE) Engineering Aid 25 specifies that the pelvis should be inclined rearward 7 ± 2 degrees with respect to the horizontal. They recommended that this angle be added to the note Pelvic Angle Reference Surface'' in Figure O3 so that testers will not be required to force the dummy's pelvis into an unnatural orientation.

NHTSA agrees with all of these recommendations. The suggested changes reflect errors in the figures. Accordingly, the agency is revising Figure O1 by adding the missing label for the lower neck-adjusting bracket. That label will read ''BRACKET—NECK ADJUSTING—LOWER (P/N 880105–208).'' The agency is also revising the second label for the neck-adjusting bracket in Figure O2 to read: BRACKET—NECK ADJUSTING—UPPER (P/N 880105–207). The agency is changing the tolerance for the test probe alignment in Figure O3 from ± 0.05 degrees to ± 0.5 degrees, and the tolerance for the impact probe weight in Figures O3 and O5 from ± 0.01 kg (0.02 lb) to ± 0.023 kg (0.05 lb). Finally, the agency is adding the angle 7 ± 2 degrees from the horizontal to the note Pelvic Angle Reference Surface in Figure O3.

In reviewing Figure O4, NHTSA discovered that it had failed to specify the weight of the pull mechanism [7] used in the torso flexion test. The Hybrid III Six- and Three-Year-Old dummy requirements each specify the weight of the pull mechanism for the torso flexion test. To be consistent with those dummy requirements and assure test repeatability, the agency is specifying that the weight of the pull mechanism must be less than or equal to 1.07 kg (2.35 lb).

Accordingly, the agency is adding the following note to Figure O4: ''Combined weight of load cell, loading adaptor bracket, pull cable, and attachment hardware 1.07 kg (2.35 lb).

2. Drawing SA572–S14

This drawing provides generic specifications for the uniaxial femur

[7] The pull mechanism consists of the load cell, loading adapter bracket, pull cable, and attachment hardware needed for the torso flexion test.

load cells for use within the HIII–5F dummy. The drawing specifies a diameter dimension of 1.722 inches/ 4.375 millimeters, with a tolerance of ±0.005 inch, for the load cell.

Denton said that there are three errors in this specification. First, the 1.722 inches should be 1.75 inches. Denton said that its Model 2121 femur, which has been used for this application worldwide (including by NHTSA) for many years, has a diameter of 1.75 inches. Denton argued that if NHTSA required a diameter of 1.722 inches, all existing femur force transducers would be rendered obsolete. As a result, the agency and its contractors, and other test facilities worldwide, would have to purchase all new femur force transducers. Denton also argued that this dimension is irrelevant to the performance of the load cell. Thus, Denton requested that the diameter dimension be changed to 1.75 inches.

Second, Denton argued that the ±0.005 inch tolerance is unnecessarily tight for the diameter dimension. Denton requested that the tolerance be changed to two decimal places, or ±0.01 inch.

Third, Denton noted that the metric conversion for 1.722 inches is stated incorrectly in the drawing. It should be 44.45, rather than 4.375, millimeters.

NHTSA agrees with all three of Denton's recommendations. The agency notes that the 1.722 inch specification and metric conversion for 1.722 inches were errors, and the agency is correcting them in this document. The agency also agrees that the tolerance specification is unnecessarily tight. For the load cells used in the Child Restraint Air Bag Interaction (CRABI) dummy, NHTSA has already changed the tolerance specification for diameter dimensions to two decimal places. For the sake of consistency, the agency is changing the tolerance specification of the HIII–5F load cell diameter dimension to two decimal places as well. Accordingly, the agency is revising Drawing SA572–S14 by changing: (1) The load cell diameter dimension to 1.75 inches; (2) the tolerance to ±0.01 inch; and (3) the metric conversion for 1.75 inches to 44.45 millimeters.

3. Drawing 880105–000

In inspecting production dummies, the VRTC noted a discrepancy in the height reference dimension ''AA'' of sheet 5 of 6 of drawing 880105. This dimension locates the measurement of the maximum chest circumference ''Y'' of the dummy with respect to the seating surface. Currently, the dimension is 12.0 ±0.20 inches.

The agency is increasing that dimension to 13.6 ±0.50 inches. This increase is needed to allow for stack up of dimensional tolerances of dummy components from the bottom of the buttocks to the shoulder structure and for variations in the dummy's torso posture. The changes will appear in the modified drawing as revision ''J''.

The agency's review of drawing 880105–000 (sheet 3 of 6) also revealed an erroneous callout for Item #4 of the parts list. Item #4 specifies part #9000224, Screw, 10–24 x 5⁄8, SHCS. However, the agency has determined that a 5⁄8 inch length screw is too long and will bottom-out before securely fastening the head accelerometer mount to the skull casting. The correct length of screw is 3⁄8 inch. Accordingly, the correct callout for Item #4 is part #9000487, 10–24 x 3⁄8, SHCS. The agency is revising Print 880105–000 sheet 3 of 6 to reflect this correction under revision ''I''.

4. Drawing 880105–434

The VRTC also noted a discrepancy in the abdominal insert drawing in drawing 880105–434. Currently, the abdominal drawing specifies, on the posterior side of the abdomen, a semicircular relief denoted by the R 3.62 and R 1.90 dimensions and shape.

Instead, the abdominal drawing should specify a rectangular shaped cutout on the posterior side of the abdomen to fit around the chest deflection transducers mounted bi-laterally next to the lumbar spine. All of NHTSA's evaluation, calibration, repeatability, and reproducibility work, including vehicle tests, have been performed with the HIII–5F dummy containing an abdomen with the rectangular cutout. If the abdominal insert were fabricated according to the dimensions and shape in the current drawing, the agency could not be assured that the dummy response would be consistent with these underlying tests.

Accordingly, the agency has revised the abdominal insert drawing in drawing 880105–434 by replacing the semicircular cutout shape with a rectangular cutout shape 4.45 inches wide and 2.00 inches long in the fore and aft direction from the posterior side, and 1.87 inches deep from the top surface of the abdomen. The change will appear in the modified drawing as revision ''C''.

5. Drawing 880105–440

Finally, the VRTC noted a discrepancy in the datum line in Drawing 880105–440, Molded Pelvic Assembly. The drawing dimension with respect to the datum line adds up to an overall depth of 10 inches in the fore-aft direction. As measured, however, the actual parts on several FTSS and Denton dummies have an overall depth of 9.25 inches. These dummies provide a good fit between the pelvis and thigh flesh.

The VRTC has inspected several pelvis assemblies and determined that the 1.00 inch dimension to the end of the pelvis flesh at the interface with the thigh flesh is incorrectly specified in the drawing. It is not needed, if the overall fore and aft depth of 9.25 inches of the pelvis is specified. Thus, control of the pelvis to a depth of 9.25 inches eliminates a potential assembly interference problem and provides a good fit between the pelvis and thigh flesh during the attachment of the femur to the pelvis. Accordingly, the agency is removing the 1.00 inch dimension from the end of the pelvis flesh and adding an overall depth dimension of 9.25 inches. The changes will appear in the modified drawing as revision ''B''.

6. Minor Drawing Revisions

In reviewing the drawings package, VRTC discovered several missing or misplaced notes and call out errors. To correct these errors, the agency is revising the drawings as shown in the following table. The revised drawings package contains a drawing revision list (Drawing Number SA572–880105DRL–1) describing all these changes.

Drawing #	Drawing title	Revision	Reason
880105–109	SKIN, HEAD—HIII 5th FEMALE	Added hole note ''½ in. Dia.''	The hole in the skin for the condile pin had no dimension.
880105–728–1	ARM COMPLETE ASSEMBLY, RIGHT.	Corrected location of balloon ''11'' arrowhead.	The arrow for item #11 was not pointing to the clamping screw.
880105–728–2	ARM COMPLETE ASSEMBLY, LEFT	Corrected location of balloon ''11'' arrowhead.	The arrow for item #11 was not pointing to the clamping screw.

Drawing #	Drawing title	Revision	Reason
880105–650/651	HYBRID III 5th FEMALE—FOOT ASSEMBLY.	(1) Changed weight to 1.75 +/- 0.10 lbs. from 1.60 +/- 0.10 lbs. (2) Removed ''left'' from the title block.	(1) The weight was changed to 1.75 lbs to reflect the actual weight of the foot assembly. (2) The word ''LEFT'' was removed from the title block because the drawing is for the Left and Right Assembly.
880105–621	KNEE CLEVIS—ADAPTOR WELDMENT.	Changed hole dia. to .266 from .2656	The hole drilled in part is actually .266.
880105–516	LINEAR POT—SHAFT MODIFICATIONS.	Changed call-out in ''Next Assembly'' to 880105–528L/R from 880105–229L/R.	Drawing 880150–229L/R specified in the ''Next Assembly'' was incorrect.
880105–250	NECK ASSEMBLY	Changed note 2 from 2.0 +/- 0.2 lbs/in to 12.0 +/- 2.0 in-lbs.	Incorrect torque designation. The PADI document (page 11) requires the neck to be torqued to 10–14 in-lbs.
880105–1092	LUMBAR LOAD CELL SIMULATOR	Hole depth dia .75 x .30 DP. changed to dia. .75 x .350 DP. Removed .350 dimension from crossectional view.	Corrected depth of .75 dia. hole note, and removed duplicate call-out of same in crossectional view.
H350–1006	MOUNT, CHEST ACCELEROMETER FOR ENDEVCO 7264–2000 ACCELS ON TRIAX MOUNT.	Added to title block ''SA572–S4'' and removed ''Endevco 7264–2000''.	Title block was revised by removing vendor designated accelerometer call-out.

7. PADI Document

Currently, the PADI (Procedures for Assembly, Disassembly, and Inspection) Document specifies that the dummy shoes shall be ''low dress black oxfords, size 8E that met MIL–S–13192P.'' These specifications must be updated to be consistent with the specifications in the Standard No. 208 Advanced Air Bag NPRM. Accordingly, the agency is revising the fifth sentence on page four of the PADI Document (under the Clothing section) to read as follows:

The shoes are women's low dress black oxfords, size 7½

W that meet MIL–S21711E.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. This rule also is not considered to be significant under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

This document amends 49 CFR Part 572 by making minor amendments to the design and performance specifications for a new 5th percentile female dummy that the agency may later incorporate into Federal motor vehicle safety standards. This document does not impose requirements on anyone.

The cost of an uninstrumented 5th percentile female dummy is approximately $33,400. Instrumentation would add from $29,000 to $99,100 to the cost, depending on the amount of instrumentation the user chooses to employ. This document does not add any costs to the cost of the dummy or any instrumentation. Thus, the economic impacts of this document are minimal, and no further regulatory evaluation is necessary.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rule under the Regulatory Flexibility Act and certify that this rule will not have a significant economic impact on a substantial number of small entities. The rule does not impose or rescind any requirements. This rule makes relatively minor amendments to the design and performance specifications for a new 5th percentile female dummy that the agency may later incorporate into Federal motor vehicle safety standards. It does not impose requirements on anyone. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

C. National Environmental Policy Act

NHTSA has analyzed this rule for the purposes of the National Environmental

Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

NHTSA has analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule makes relatively minor amendments to the design and performance specifications for a new 5th percentile female dummy that the agency may later incorporate into Federal motor vehicle safety standards. The agency has determined that this rule does not have sufficient federalism implications to warrant consultation and the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid control number from the Office of Management and Budget (OMB). This rule does not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR Part 1320.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The 5th percentile female test dummy that is the subject of this document was developed under the auspices of the SAE. All relevant SAE standards were reviewed as part of the development process. The following voluntary consensus standards have been used in developing the dummy: SAE Recommended Practice J211, Rev. Mar 95 ''Instrumentation for Impact Tests;'' and SAE J1733 of 1994–12 ''Sign Convention for Vehicle Crash Testing, Surface Vehicle Information Report.''

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, Federal requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule does not impose any unfunded mandates under the UMRA. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. This rule makes relatively minor amendments to the design and performance specifications for a new 5th percentile female dummy that the agency may later incorporate into Federal motor vehicle safety standards. It will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 572

Incorporation by reference, Motor vehicle safety.

In consideration of the foregoing, 49 CFR Part 572 is amended as follows:

PART 572—ANTHROPOMORPHIC TEST DUMMIES

1. The authority citation for Part 572 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. In ''572.130, paragraphs (a)(1) introductory text, (a)(2), and (c)(1) are revised to read as follows:

§572.130 Incorporation by reference.

(a) * * *

(1) A drawings and specification package entitled ''Parts List and

Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy (HIII–5F, Alpha Version)'' (June 2002), incorporated by reference in ''572.131, and consisting of:

* * * * *

(2) A procedures manual entitled ''Procedures for Assembly, Disassembly, and Inspection (PADI) Subpart O Hybrid III Fifth Percentile Adult Female Crash Test Dummy (HIII–5F), Alpha Version'' (February 2002), incorporated by reference in § 572.132.

* * * * *

(c) * * *

(1) The Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy, (HIII–5F, Alpha Version) (June 2002), referred to in paragraph (a)(1) of this section and the Procedures for Assembly, Disassembly, and Inspection (PADI) of the Hybrid III 5th Percentile Small Adult Female Crash Test Dummy, Alpha Version, referred to in paragraph (a)(2) of this section are available from Reprographic Technologies, 9107 Gaither Road, Gaithersburg, MD 20877, (301) 419–5070. These documents are also accessible for reading and copying through the DOT Docket Management System.

* * * * *

3. In ''572.131, paragraph (a)(2) is revised to read as follows:

§ 572.131 General description.

(a) * * *

(2) Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy (HIII–5F, Alpha Version) (June 2002) (refer to § 572.130(a)(1)(ix)).

* * * * *

4. In ''572.133, Table B is revised to read as follows:

§ 572.133 Neck assembly and test procedure.

* * * * *

TABLE B.—PENDULUM PULSE

Time ms	Flexion		Extension	
	m/s	ft/s	m/s	ft/s
10	2.1–2.5	6.9–8.2	1.5–1.9	4.9–6.2
20	4.0–5.0	13.1–16.4	3.1–3.9	10.2–12.8
30	5.8–7.0	19.5–23.0	4.6–5.6	15.1–18.4

5. In ''572.134, the last sentence of (b)(1) is revised and paragraph (c)(7) is added to read as follows:

§ 572.134 Thorax assembly and test procedure.

* * * * *

(b) * * *

(1) * * * The peak force after 18.0 mm (0.71 in) of sternum displacement but before reaching the minimum required 50.0 mm (1.97 in) sternum displacement limit shall not exceed 4600 N.

* * * * *

(c) * * *

(7) No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

6. In § 572.136, paragraph (c)(6) is added to read as follows:

§ 572.136 Knees and knee impact test procedure.

* * * * *

(c) * * *

(6) No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

7. In § 572.137, paragraphs (a), (b), (m)(3)(ii) and (iii), and (m)(6), are revised and paragraph (m)(2)(iv) is added to read as follows:

§ 572.137 Test conditions and instrumentation.

(a) The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.134(c)(7). The impactor shall have a mass of 13.97 ± 0.23 kg (30.8 ± 0.05 lbs) and a minimum mass moment of inertia of 3646 kg-cm ^{2} (3.22 lbs-in-sec ^{2}) in yaw and pitch about the CG of the probe. One-third (1/3) of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 152.4 ± 0.25 mm (6.00 ± 0.01 in) diameter face with a minimum/maximum edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 152.4–152.6 mm (6.0–6.1 in) diameter cylindrical surface extending for a minimum of 25 mm (1.0 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe has a free air resonant frequency of not less than 1000 Hz, which may be determined using the procedure listed in Docket No. NHTSA–6714–14.

(b) The test probe for knee impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.136(c)(6). The impactor shall have a mass of 2.99 0.23 kg (6.6 ±0.05 lbs) and a minimum mass moment of inertia of 209 kg-cm ^{2} (0.177 lb-in-sec ^{2}) in yaw and pitch about the CG of the probe. One-third (1/3) of the weight of suspension cables and any attachments to the impact probe may be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 76.2 ± 0.2 mm (3.00 ± 0.01 in) diameter face with a minimum/maximum edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 76.2–76.4 mm (3.0–3.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe has a free air resonant frequency of not less than 1000 Hz, which may be determined using the procedure listed in Docket No. NHTSA–6714–14.

* * * * *

(m) * * *

(2) * * *

(iv) Rotation potentiometer—Class 60 (optional)

(3) * * *

(ii) Spine and pendulum accelerations—Class 180

(iii) Sternum deflection—Class 600

* * * * *

(6) Femur forces and knee pendulum—Class 600

* * * * *

8. At the end of subpart O, Figures O1, O2, O3, O4, and O5 are revised as follows:

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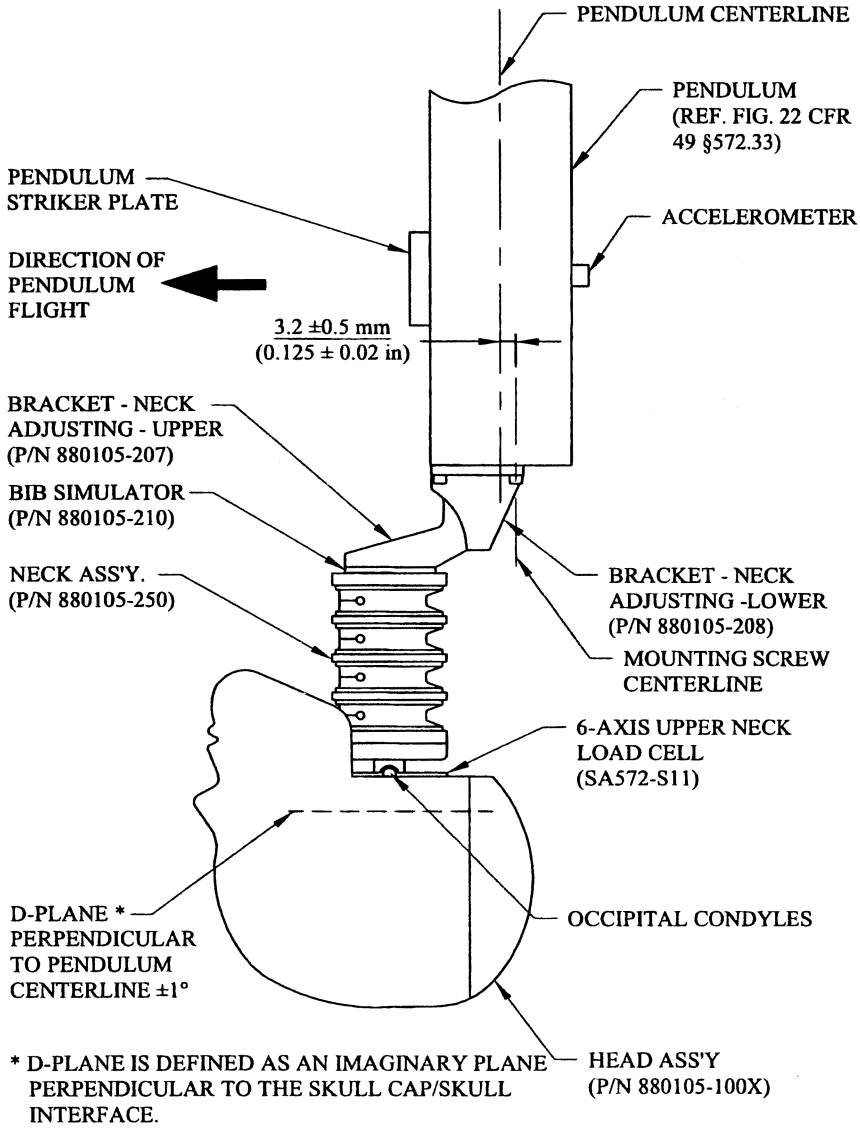
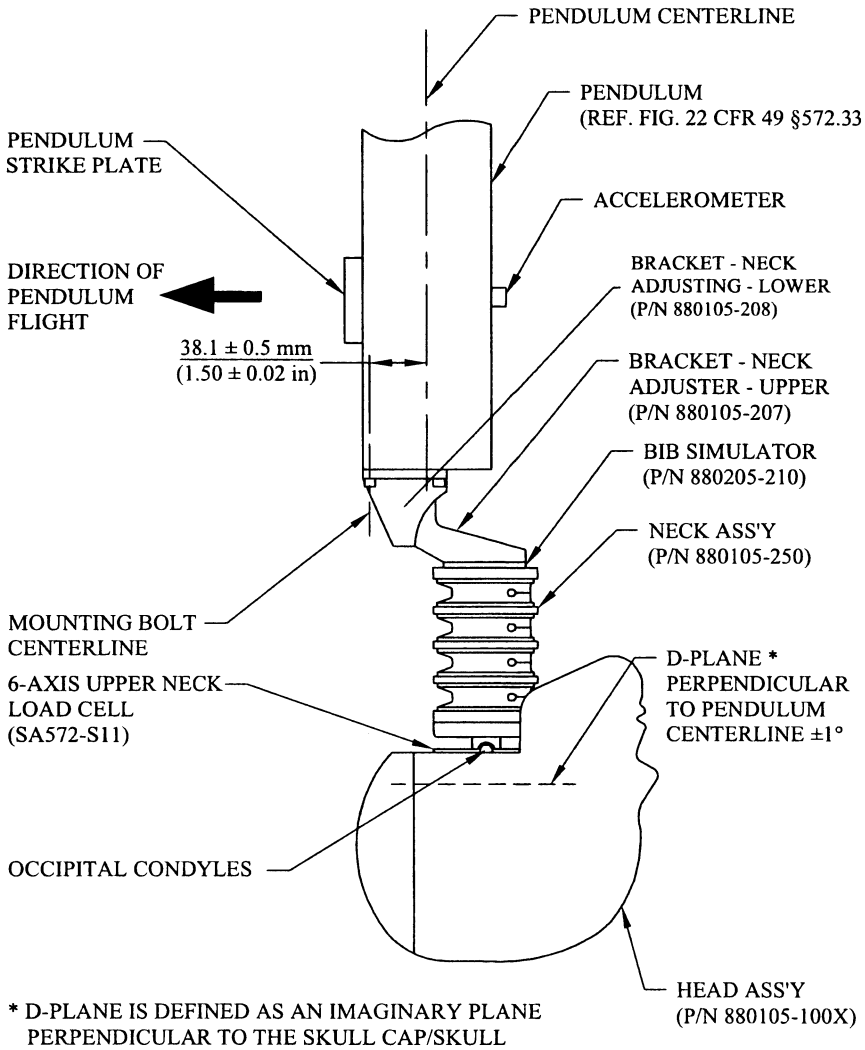
Figures to Subpart O

FIGURE O1
NECK FLEXION TEST SETUP SPECIFICATIONS



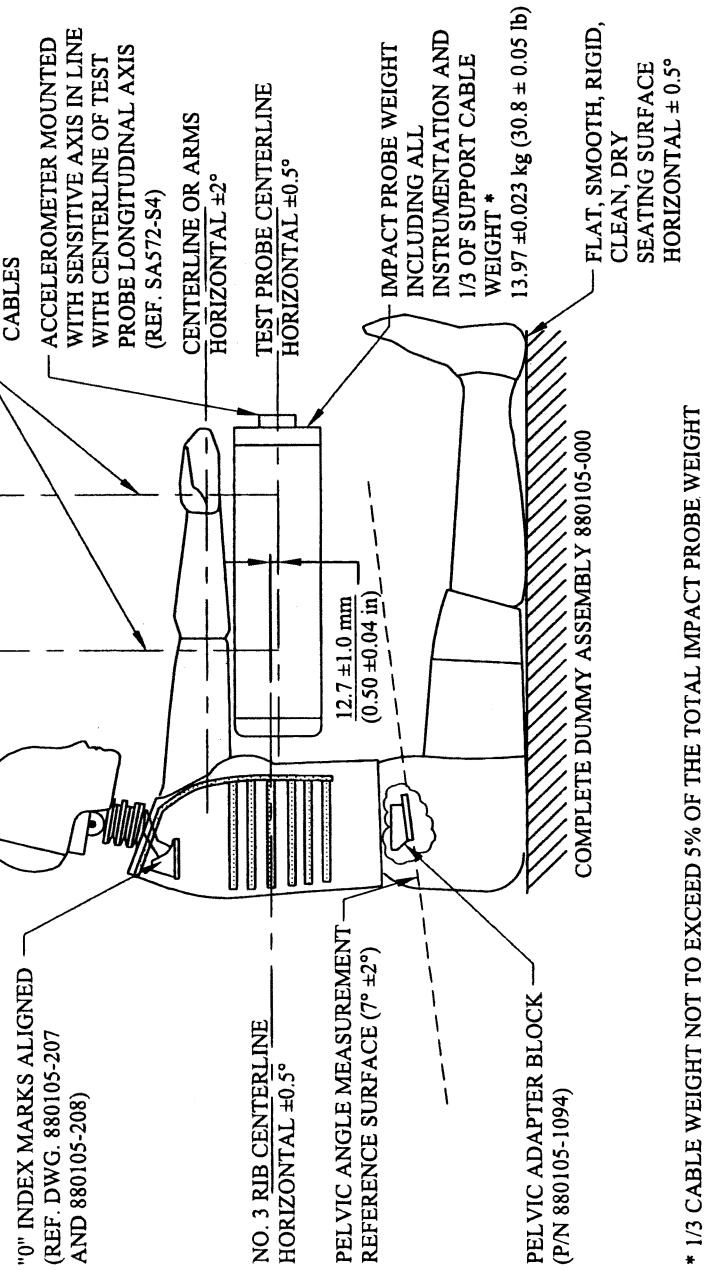
* D-PLANE IS DEFINED AS AN IMAGINARY PLANE PERPENDICULAR TO THE SKULL CAP/SKULL INTERFACE.

FIGURE O2
NECK EXTENSION TEST SETUP SPECIFICATIONS



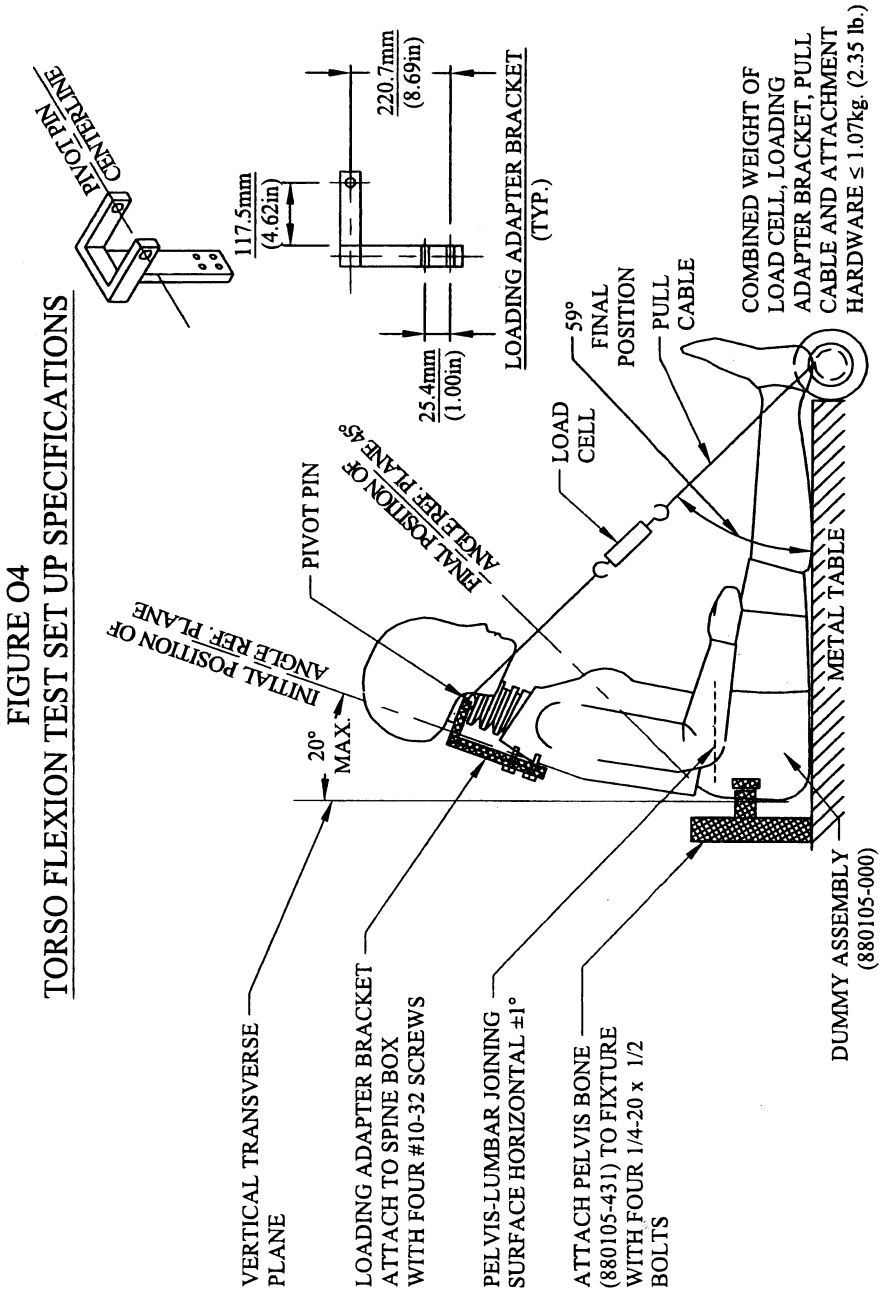
* D-PLANE IS DEFINED AS AN IMAGINARY PLANE PERPENDICULAR TO THE SKULL CAP/SKULL INTERFACE.

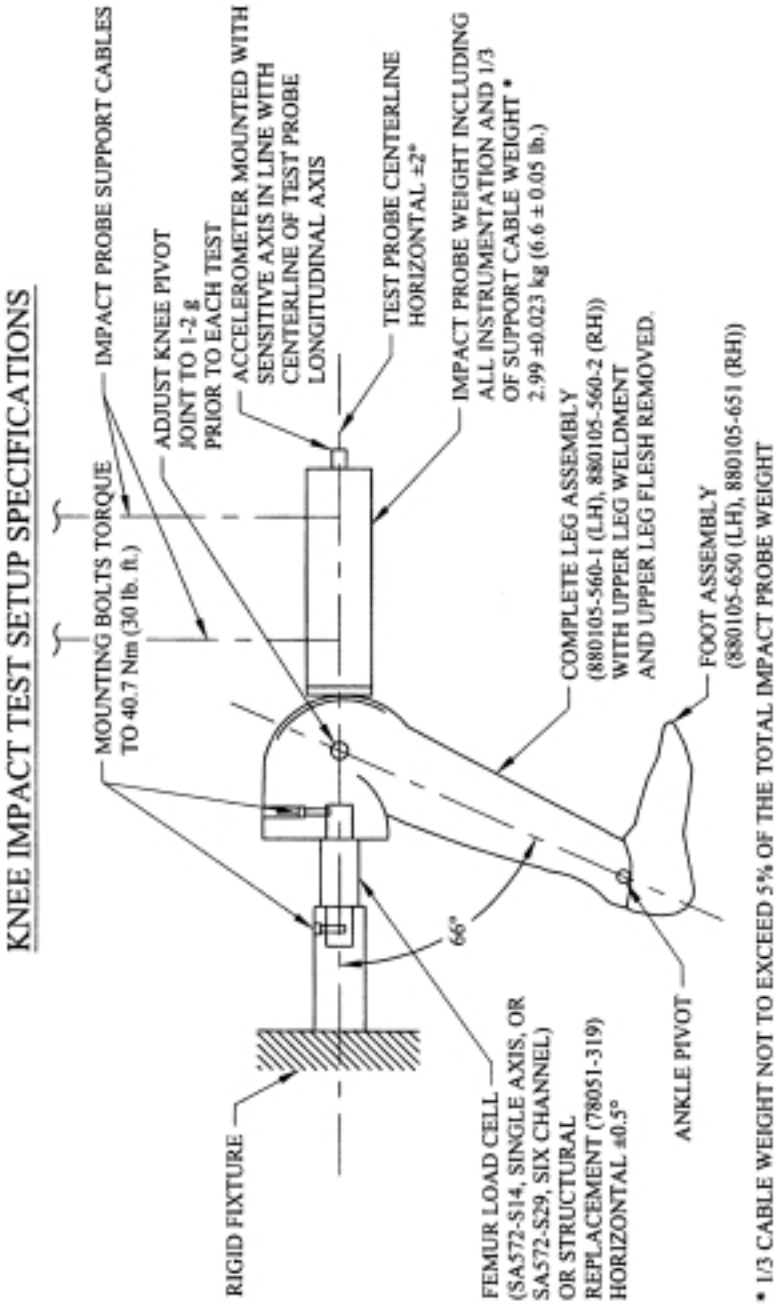
FIGURE 03
THORAX IMPACT TEST SETUP SPECIFICATIONS



* 1/3 CABLE WEIGHT NOT TO EXCEED 5% OF THE TOTAL IMPACT PROBE WEIGHT

FIGURE O4
TORSO FLEXION TEST SET UP SPECIFICATIONS





Issued: June 13, 2002.

Jeffrey W. Runge,

Administrator.

[FR Doc. 02–15285 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 020131023–2056–02; I.D. 070302B]

Pacific Halibut Fisheries; Washington Sport Fisheries

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

ACTION: Inseason action and partial closure; request for comments.

SUMMARY: NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the south coast of Washington. This action would change the days and the area open to halibut fishing along the south coast. The purpose of this action is to allow continued access to Washington's south coast halibut quota while reducing the likelihood of yelloweye rockfish interception.

DATES: Effective 0001 local time, July 12, 2002, through the **Federal Register**

publication of the 2003 specifications and management measures. Comments on this rule will be accepted through July 30, 2002.

ADDRESSES: Submit comments to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. This **Federal Register** document is available on the Government Printing Office's Web site at: *http://www.access.gpo.gov/su__docs/aces/aces140.html.*

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Jamie Goen (NMFS, Northwest Region) 206–526–6140.

SUPPLEMENTARY INFORMATION: The Area 2A Catch Sharing Plan for Pacific halibut off Washington, Oregon, and California is implemented in the annual management measures for the Pacific halibut fisheries published on March 20, 2002 (67 FR 12885). Those regulations established the 2002 area quota for the south coast of Washington (Queets River to Leadbetter Point) fishery of 42,739 lb (19.4 mt) and the related management measures. The all-depth sport fishery in this area is scheduled for 5 days per week (Sunday through Thursday), and the nearshore fishery is scheduled for 7 days per week.

Over the last 4 weeks, the pace of the all-depth halibut fishery has slowed, due in part to a shift in fishing effort into the recreational chinook salmon fishery, which was open from May 25 through June 16 off the Washington coast. Effort in the sport halibut fishery is expected to remain low due to the opening of the recreational coho salmon fishery in the Westport, WA area. The coho fishery starts June 30 and lasts 5 days per week (Sunday through Thursday) through the earlier of September 8 or quota attainment.

As of June 27, 2002, a total of 1,919 lb (0.87 mt) of halibut were landed over the last 4 weeks compared to 31,390 lb (14.24 mt) over the first 4 weeks of the fishery. The quota left remaining for the Washington south coast fishery (both all-depth and nearshore) is 9,430 lb (4.28 mt). Although the pace of the south coast all-depth fishery has slowed, Washington Department of Fish and Wildlife (WDFW), the agency that directly monitors the sport halibut fishery off Washington's coast, is concerned about leaving the entire south coast all-depth fishery open 5 days per week because of potential rockfish bycatch in the halibut sport fishery. WDFW is trying to keep bycatch of non-target species in the recreational fisheries below approximately 6,614 lb (3 mt) statewide. At the end of May, bycatch of non-target species was estimated to be at approximately 3,527 lb (1.6 mt). Bycatch of yelloweye rockfish, an overfished groundfish species, is of particular concern in the sport halibut fisheries. In order to keep the south coast all-depth fishery open while reducing the likelihood that the fishery will intercept yelloweye rockfish, WDFW recommended to NMFS and the International Pacific Halibut Commission (IPHC) that the all-depth fishery be changed from a 5 days per week fishery (Sunday through Thursday - the same open days as the recreational coho salmon fishery) to a 2 day per week fishery (Friday and Saturday). While this change would reduce the days of the week that a vessel could fish for halibut, thus reducing the chance of intercepting yelloweye rockfish, it would also allow more opportunity for sport boats to fish because they could target halibut on days when the salmon fishery is closed.

In addition to a reduction in fishing days per week, WDFW proposed to restrict the all-depth area that can be fished to the following two areas: (1) an area known as the ''Westport, WA halibut hot spot'' and (2) an area from Grays Harbor, WA south to Leadbetter Point, WA. NMFS proposes to allow only these areas to remain open because it would allow fishing for halibut in areas that have minimal yelloweye rockfish bycatch. The Westport, WA halibut hot spot is a three mile by three mile area approximately 34 miles offshore defined by the following coordinates: 47°19′ N. lat. by 124°53′ W. long., 47°19′ N. lat. by 124°48′ W. long., 47°16′ N. lat. by 124°53′ W. long., and 47°16′ N. lat. by 124°48′ W. long. Because the Westport, WA halibut hot spot is farther offshore, it is primarily accessible to charter boats and larger private vessels. In order to allow equal halibut opportunity to smaller private vessels along the south coast of Washington, WDFW also proposed to open an area closer to shore within an area defined by the following coordinates: 47°00' N. lat. south to 46°38′10″ N. lat.(Leadbetter Point, WA), and east of 124°27 W. long.

Section 25 of the 2002 Pacific halibut regulations provides NMFS with the authority to make certain inseason management changes, provided that the action is necessary to allow allocation objectives to be met, and that the action will not result in exceeding the catch limit for the area. The Catch Sharing Plan's structuring objective for the Washington south coast area is to maximize the season length, while maintaining a quality fishing experience.

The Washington south coast all-depth subarea would be changed from a 5 days per week (Sunday through Thursday) fishery to a 2 days per week (Friday and Saturday) fishery. Additionally, sport fishing for halibut in this area would be restricted to an area known as the Westport, WA halibut hot spot and an area closer to shore between Grays Harbor, WA and Leadbetter Point, WA. The purpose of leaving these areas open is to lengthen the season by allowing fishers access to areas of more abundant halibut while reducing the likelihood of yelloweye rockfish interception.

In consultation with the WDFW and the IPHC, NMFS has determined that restricting the Washington south coast all-depth subarea to halibut fishing only on Fridays and Saturdays in the areas defined above meets the Catch Sharing Plan's objective of providing a quality fishing experience without allowing the fishery to exceed the Washington south coast halibut quota. Additionally, this action is expected to protect an overfished groundfish species, yelloweye rockfish.

NMFS Action

For the reasons stated above, NMFS announces the following change to the 2002 annual management measures (67 FR 12885, March 20, 2002).

1. On page 12895, in section 24. *Sport Fishing for Halibut*, paragraph (4)(b)(iii)(A) is revised to read as follows:

24. Sport Fishing for Halibut

* * * * *

(A) The south coast area (Queets River to Leadbetter Point) will remain open until 42,739 lb (19.4 mt) is estimated to have been taken and the season is closed by the Commission, or until September 30, whichever occurs first.

(*1*) The fishing season commences May 1 and continues 7 days a week in the area from Queets River south to 47°00′ N. lat. and east of 124°40′ W. long.

(*2*) The fishing season commences on May 1 and continues 5 days per week (Sunday through Thursday) in all waters until July 11. Starting July 12, the fishing season will be 2 days a week (Friday and Saturday) in the area outside the area described in (A)(1), but will be restricted to two areas defined by the following coordinates:

(*i*) 47°19′ N. lat. by 124°53′ W. long., 47°19′ N. lat. by 124°48′ W. long., 47°16′ N. lat. by 124°53′ W. long., and 47°16′ N. lat. by 124°48′ W. long and

(*ii*) 47°00′ N. lat. south to 46°38′10″ N. lat.(Leadbetter Point), and east of 124°27′ W. long.

* * * * *

Classification

This action is authorized by the regulations implementing the Catch Sharing Plan. The determination to take these actions is based on the most recent data available. The Assistant Administrator for Fisheries, NOAA (AA), has determined that good cause exists for this document to be published without affording a prior opportunity for public comment under 5 U.S.C. 553(b)(B) because doing so would be impracticable and contrary to the public interest. Providing prior notice and opportunity for public comment would be impracticable and contrary to the public interest because it would delay this action and lead to earlier season closures and a greater likelihood of yelloweye rockfish interception in the halibut sport fishery off Washington's south coast. It is contrary to the public interest because it would delay this action and prevent fishers from continuing to access the Washington south coast halibut quota while avoiding yelloweye rockfish. For the above reasons, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(3).

Public comments will be received for a period of 15 days after the effectiveness of this action. This action is authorized by Section 25 of the annual management measures for Pacific halibut fisheries published on March 20, 2002 (67 FR 12885), and has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 773–773k *et seq.*

Dated: July 10, 2002.

Virginia M. Fay,

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

[FR Doc. 02–17704 Filed 7–10–02; 4:31 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 135
Monday, July 15, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV02–993–610 REVIEW]

Dried Prunes Produced in California; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of review and request for comments.

SUMMARY: This notice of review announces that the Agricultural Marketing Service (AMS) plans to review Marketing Order 993 for dried prunes produced in California, under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA).

DATES: Written comments on this notice must be received by September 13, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice of review. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or may be viewed at *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Richard Van Diest, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; E-mail: *Richard.VanDiest@usda.gov;* or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237, (202) 720–8938, or E-mail: *George.Kelhart@usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Order No. 993, as amended (7 CFR part 993), regulates the handling of dried prunes produced in California. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674).

AMS initially published in the **Federal Register** (63 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Order No. 993, under criteria contained in section 610 of the Regulatory Flexibility Act (RFA; U.S.C. 601–612). An updated plan was published in the **Federal Register** on January 4, 2002 (67 FR 525). Because many AMS regulations impact small entities, AMS has decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warrant review.

The purpose of the review will be to determine whether the marketing order for dried prunes produced in California should be continued without change, amended, or rescinded (consistent with the objectives of the AMAA) to minimize the impacts on small entities. In conducting this review, AMS will consider the following factors: (1) The continued need for the marketing order; (2) the nature of complaints or comments received from the public concerning the marketing order; (3) the complexity of the marketing order; (4) the extent to which the marketing order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing order.

Written comments, views, opinions, and other information regarding the dried prune marketing order's impact on small businesses are invited.

Dated: July 9, 2002.

Barry L. Carpenter,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–17615 Filed 7–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–32–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS355N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for Eurocopter France (ECF) Model AS355N helicopters. The current AD requires visually inspecting the four engine exhaust pipe ejector (ejector) attachment lugs (lugs), the starter-generator (S–G) attachment flange (flange) and attachment half-clamps (half-clamps) for cracks, and the S–G shaft for radial play. This superseding AD would retain the current requirements, except would not require measuring the radial play but would require measuring each S–G engine clamp torque and vibration level and recording the S–G vibration level on a component history card or equivalent record. If the S–G vibration level is equal to or higher than 0.5 inches per second (IPS), this superseding AD would require repairing or replacing the S–G, as necessary. This proposal is prompted by additional cases of S–G damage and the need for additional corrective actions. The actions specified by this proposed AD are intended to prevent excessive S–G vibration, which could lead to separation of an ejector, impact with the main or tail rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 13, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the

Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–32–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9–asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Federal Register between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0110, telephone (817) 222–5355, fax (817) 222–5961.

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 should 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 will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available 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 mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2002–SW–32–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

This document proposes superseding an existing AD for ECF Model AS355N helicopters. This action would require determining the S–G clamp torque in accordance with the maintenance manual and the vibration level on both engines at specified intervals. This action would also require recording each vibration level on the component history card or equivalent record. If the S–G vibration level is equal to or higher than 0.5 IPS (12.7 mm/s), this action would require repairing or replacing the S–G, as necessary. Also, this action would require inspecting the lugs, the two clamps, and the flange for a crack and replacing any cracked part with an airworthy part before further flight. This proposal is prompted by reports of S–G damage, cracks in the lugs, and a report of in-flight loss of an ejector. The actions specified by the proposed AD are intended to prevent excessive S–G vibration, which could lead to separation of an ejector, impact with the main or tail rotor, and subsequent loss of control of the helicopter.

On March 6, 2000, the FAA issued AD 2000–05–15, Amendment 39–11625 (65 FR 14209), to require visually inspecting the four lugs, the flange, and the half-clamps for cracks and the S–G shaft for radial play. That action was prompted by reports of S–G damage, cracks in the lugs, and a report of in-flight loss of an ejector. The requirements of that AD are intended to prevent separation of an ejector from the helicopter, which could result in a main or tail rotor strike and subsequent loss of control of the helicopter.

Since the issuance of that AD, further cases of damage due to excessive S–G vibration have resulted in modifying the technical analysis and the precautionary measures.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter France Model AS355N helicopters. The DGAC advises of further cases of S–G deterioration, which may lead to failure of the engine exhaust pipe lugs and loss of the ejector.

ECF has issued Eurocopter Alert Telex (Telex) No. 01.00.45 R3, dated November 22, 2001 that supersedes Alert Telex No. 01.00.45 R2, dated August 24, 2000, and No. 01.00.15 R2, dated April 3, 2000, that superseded Alert Telex No. 01.00.45, dated October 27, 1999. Alert Telex No. 01.00.45 R3 specifies checking the S–G clamp torque and vibration levels and recording vibration levels. If the vibration level is equal to or above 0.5 IPS (12.7 mm/s), Telex 01.00.45 R3 specifies repairing the S–G as well as conducting additional inspections and repairs. The Telex states that ECF is developing modifications to return to an acceptable maintenance program.

The DGAC classified Telex Nos. 01.00.45 R2 and 01.00.45 R3 as mandatory. The DGAC issued AD Nos. 1999–469–058(A)R1, dated August 9, 2000, and 1999–469–058(A)R2, dated January 9, 2002, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral 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.

This unsafe condition is likely to exist or develop on other ECF Model AS355N helicopters of this same type design. Therefore, the proposed AD would supersede AD 2000–05–15 to require determining the S–G clamp torque in accordance with the maintenance manual and measuring and recording the vibration level at specified intervals. If the vibration level is equal to or higher than 0.5 IPS, the AD would require repairing or replacing the S–G with an airworthy S–G, as necessary. In addition, the AD would require inspecting the lugs, the two clamps, and the flange for a crack, and replacing any cracked part with an airworthy part before further flight.

The FAA estimates that this proposed AD would:

- Affect 13 helicopters of U.S. registry;
- Require 5.5 work hours for the inspections;
- Require 5 work hours to replace the parts at an average labor rate of $60 per work hour;
- Cost approximately $6,346 for each S–G, $12,148 for each exhaust pipe, $500 for each flange, and $175 for each clamp or $38,338 per helicopter; and
- Result in a total cost impact of $506,584, assuming one inspection and replacement of all parts per helicopter.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11625 (65 FR 14209, March 16, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 2002–SW–32–AD. Supersedes AD 2000–05–15, Amendment 39–11625, Docket No. 99–SW–87–AD.

Applicability: Model AS355N helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) 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 excessive starter-generator (S–G) vibration, which may lead to separation of an engine exhaust pipe ejector (ejector), impact with the main or tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight and at or between 10 and 15 hours time-in-service (TIS), inspect the torque on each S–G attachment clamp (clamp). If the torque is not within tolerances provided in the maintenance manual, adjust the torque accordingly.

(b) Measure and record on a component history card or equivalent record the vibration level for each S–G in accordance with the Accomplishment Instructions, paragraph 2.A.2., of Eurocopter France (ECF) Telex No. 01.00.45 R3, dated November 22, 2001 (Telex), as follows:

(1) For each S–G with less than 10 hours TIS since initial installation, before further flight, and at or between the hours TIS as shown in Table 1 of this AD:

TABLE 1.—S–G VIBRATION LEVEL MEASUREMENT INTERVALS

Hours TIS
A. 10 and 15.
B. 24 and 35.
C. 45 and 55.
D. 70 and 80.
E. 100 and 110.

(2) For each S–G with 10 hours or more TIS but less than 110 hours TIS since initial installation, begin and continue the vibration level measurements at or between the applicable hours TIS shown in Table 1 of this AD.

(3) For each S–G with more than 110 hours TIS since initial installation, measure the vibration level before further flight.

(c) After doing paragraph (b) of this AD, thereafter, at intervals not to exceed 110 hours TIS, measure the vibration level in accordance with paragraph 2.A.2. of the Telex.

(d) If the vibration level of an S–G is equal to or greater than 0.5 inches per second (IPS) (12.7 mm/s):

(1) Remove the S–G and repair or replace it with an airworthy S–G.

(2) Visually inspect the four ejector attachment lugs (lugs) and the two clamps for a crack in accordance with the Accomplishment Instructions, paragraph 2.B.3.b.1B), of the Telex.

(3) Inspect the two half-clamps for a crack.

(4) Remove the S–G to engine attachment flange (flange). Clean and inspect the flange for a crack in accordance with the Accomplishment Instructions, paragraph 2.B.3.b.1D) of the Telex.

(5) If a crack is found, before further flight, repair or replace the cracked part with an airworthy part in accordance with the Accomplishment Instructions, paragraph 2.B.3.b.3 of the Telex, except you are not required to report your findings to the manufacturer.

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

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

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

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD Nos. 1999–469–058(A)R1, dated August 9, 2000, and 1999–469–058(A)R2, dated January 9, 2002.

Issued in Fort Worth, Texas, on July 3, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–17301 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–06–AD]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A109E helicopters. This proposal would require establishing or reducing the life limits of various parts listed in the airworthiness limitations section (ALS) of the maintenance manual. This proposal is prompted by the results of fatigue tests and analysis to determine life limits for various parts. The actions specified by this proposed AD are intended to establish or reduce the life limits to prevent failure of specified parts and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 13, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–06–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5120, fax (817) 222–5961.

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 should 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 will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2002–SW–06–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

On September 7, 2001, Agusta sent the FAA a comparison between the May 1996 and July 2001 issues of the ALS of its maintenance manual and provided justification for the changes in fatigue lives of certain parts. The justification for changing the life limits was based on applying new fatigue life computations, a rescue hoist flight spectrum, a Category A training flight spectrum, a new operational limit, and an update of loads in-flight survey data.

This helicopter model is manufactured in Italy and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. The FAA has 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.

An unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States if the proposed life limits are not followed. Therefore, the proposed AD would require establishing or reducing the life limits of specified parts of the main transmission assembly and supports, the tail rotor assemblies, the main rotor control bolt, and the fuselage left-hand elevator, and revising the ALS of the maintenance manual accordingly.

The FAA estimates that 31 helicopters of U.S. registry would be affected by this proposed AD. One copy of each of the 11 parts listed in Table 1 of this proposal would cost approximately $41,294. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,280,114, assuming that one copy of each part would be replaced on the entire fleet. There would be no additional labor costs as the parts would be replaced during the normal maintenance process.

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 a new airworthiness directive to read as follows:

Agusta S.p.A.: Docket No. 2002–SW–06–AD.

Applicability: Model A109E helicopters, certificated in any category.

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

Compliance: Required within 100 hours time-in-service (TIS), unless accomplished previously.

To prevent failure of specified parts of the main transmission assembly and supports, the tail rotor assemblies, the main rotor control bolt, or the fuselage left-hand elevator, and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace each part listed in Table 1 with an airworthy part on or before reaching the specified hours TIS as shown in Table 1 of this AD as follows:

TABLE 1

Part name	Part No.	Hours TIS
(1) Main transmission gear pinion	109–0403–05–111	6,100
(2) Main transmission gear driver	109–0403–04–3	8,300
(3) Main transmission shaft assembly	109–0405–76–107	25,000

TABLE 1—Continued

Part name	Part No.	Hours TIS
(4) Tail rotor retention strap assembly	109–8131–07–1	1,800
(5) Tail rotor hub assembly	109–0131–06–7	3,000
(6) Tail rotor 90-degree gearbox pinion gear	109–0433–01–107	6,100
(7) Tail rotor 90-degree gearbox crown gear	109–0443–01–103	11,700
(8) Main rotor control bolt	109–0110–90–103	5,000
(9) Fuselage left-hand elevator	109–0200–02–93	4,400
(10) Main transmission support aft rod	109–0325–03–113	35,000
(11) Main transmission support lower fitting	109–0325–08–1	30,000

(b) This AD revises the airworthiness limitations section of the maintenance manual by establishing or reducing the life limit as specified in Table 1 of this AD.

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

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

(d) Special flight permits will not be issued.

Issued in Fort Worth, Texas, on July 5, 2002.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–17424 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–13–AD]

RIN 2120–AA64

Airworthiness Directives; Vulcanair S.p.A. P 68 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Vulcanair S.p.A. (Vulcanair) P 68 series airplanes. This proposed AD would require you to inspect the flight and engine control systems to ensure that there is correct connecting bolt and linkage installation, no interference, and correct installation of certain components. The proposed AD would also require you to make any necessary adjustments and modify and install the split link and full travel limit assembly. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by this proposed AD are intended to prevent failure of the primary flight control system caused by certain configurations. Such failure could lead to loss of aircraft flight control.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before August 26, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–13–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–13–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy, telephone: +39.081.5918111; facsimile: +39.081.5918172. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write

''Comments to Docket No. 2002–CE–13–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Ente Nazionale per l'Aviazione Civile (ENAC), which is the airworthiness authority for Italy, recently notified FAA that an unsafe condition may exist on certain Vulcanair Models P 68, P 68B, P 68C, P 68C–TC, P 68 ''OBSERVER'', AP68TP300 ''SPARTACUS'', P68TC ''OBSERVER'', AP68TP 600 ''VIATOR'', and P68 ''OBSERVER 2'' airplanes. The ENAC reports several instances of incorrectly installed bolts, missing nuts, and the presence of interference between the forward control lever assembly and the airframe.

What Are the Consequences If the Condition Is Not Corrected?

If not detected and corrected, these conditions could result in failure of the primary flight controls. Such failure could lead to loss of aircraft flight control.

Is There Service Information that Applies to this Subject?

Vulcanair has issued P68 Series Service Bulletin No. 110, dated March 19, 2002; and P68 Series Service Bulletin No. 111, Rev. 1, dated February 20, 2002.

What Are the Provisions of this Service Information?

Vulcanair P68 Series Service Bulletin No. 110, dated March 19, 2002, includes procedures for:

—Inspecting for interference between the control column interconnection chain and the engine control pedestal assembly when the flight controls are in the maximum nose-down position;

—Inspecting to ensure that the split link is correctly installed in the chain and that the lock-wire is present and undamaged;

—Making any necessary adjustments; and

—Modifying and installing the split link and full travel limit assembly.

Vulcanair P68 Series Service Bulletin No. 111, Rev. 1, dated February 20, 2002, includes procedures for:

—Inspecting all control cable and control rod connecting bolts and linkages for proper installation;

—Inspecting for interference between the flight control components and the airframe installations;

—Making any necessary adjustments; and

—Inspecting for the correct installation of the part number AN24–18A bolt that connects the forward control cable rod to the control column and reinstalling if necessary.

What Action Did the ENAC Take?

The ENAC classified these service bulletins as mandatory. In order to ensure the continued airworthiness of these airplanes in Italy, the ENAC issued the following:

—Italian AD Number 2002–212, dated March 28, 2002; and

—Italian AD Number 2002–155, dated February 22, 2002.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in Italy 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 ENAC has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of this Proposed AD

What has FAA Decided?

The FAA has examined the findings of the ENAC; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Vulcanair P 68 series airplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service information.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that the proposed AD affects as many as 58 airplanes in the U.S. registry. The actions specified in Vulcanair P68 Series Service Bulletin No. 110 affect 15 U.S.-registered airplanes. The actions specified in Vulcanair P68 Series Service Bulletin No. 111, Rev.1, affect 58 U.S.-registered airplanes.

What Would be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspections and modifications of Vulcanair P68 Series Service Bulletin No. 110:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
7 workhours × $60 per hour = $420	$150	$570	$8,550

We estimate the following costs to accomplish the proposed inspections of Vulcanair P68 Series Service Bulletin No. 111, Rev. 1:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 workhours × $60 per hour = $240	None	$240	$13,920

The FAA has no method of determining the number of necessary adjustments each owner/operator would incur if connecting bolts, linkage, etc. were found incorrectly installed. We estimate the cost to be minor.

Compliance Time of this Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of this proposed AD is ''within the next 30 days after the effective date of the AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-In-Service (TIS)?

The compliance of this proposed AD is presented in calendar time instead of hours TIS because these missing or incorrectly installed parts is due to a lack of quality control at the factory. The problem has the same chance of existing on an airplane with 50 hours TIS as it would for an airplane with 1,000 hours TIS. Therefore, we believe that 30 days will:

—Ensure that the unsafe condition does not go undetected for a long period of time on the affected airplanes; and

—Not inadvertently ground any of the affected airplanes.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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 proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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 has been placed 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Vulcanair S.P.A.: Docket No. 2002–CE–13–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

(1) Group 1 Airplanes: Model P 68 ''OBSERVER 2'', serial numbers 401 through 411.

(2) Group 2 Airplanes: Model P 68 ''OBSERVER 2'', serial numbers 412 and 413.

(3) Group 3 Airplanes: Model P 68C, serial number 402.

(4) Group 4 Airplanes:

Model	Serial Nos.
P 68 ''OBSERVER''	All serial numbers through 411.
P 68 ''OBSERVER''	All serial numbers through 400.
P68TC ''OBSERVER''	All serial numbers through 411.

(5) Group 5 Airplanes:

Model	Serial Nos.
AP68TP300 ''SPARTACUS''	All serial numbers through 413.
P 68	All serial numbers through 413.
P 68 ''OBSERVER''	412 and 413.
P 68 B	All serial numbers through 413.
P 68C	All serial numbers through 401 and 403 through 413.
P 68C–TC	All serial numbers through 413.
P68TC ''OBSERVER''	412 and 413.
P68TP 600 ''VIATOR''	All serial numbers through 413.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraphs (a)(1) through (a)(5) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent failure of the primary flight control system caused by certain configurations. Such failure could lead to loss of aircraft flight control.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Airplane groups affected	Procedures
(1) Inspect the connecting bolts in the stabilator, rudder, aileron, and flap controls to verify the correct installation and inspect the forward control lever for interference with the airframe. (i) If interference or any incorrect installations are found during the inspections, obtain a repair scheme from the manufacturer through the FAA at the address specified in paragraph (f) of this AD. (ii) Incorporate this repair scheme	Within the next 30 days after the effective date of this AD. Perform necessary repairs prior to further flight after the inspection in which the interference or any incorrect installation is found.	Group 1, Group 2, and Group 3.	Inspect in accordance with paragraph 2. WORK PROCEDURE, 2.1 PART A, of Vulcanair P68 Series Service Bulletin No. 111 Rev. 1, dated February 20, 2002. Repair in accordance with the repair scheme obtained from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD.
(2) Accomplish the following inspections: (i) Inspect to ensure that there is no interference between the control column interconnection chain and engine control pedestal assembly when the flight controls are in the maximum nose down position. Correct any interference as specified in the service information or obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD, as applicable. (ii) Inspect to ensure that the split link (part number NOR7.059–1) is correctly installed in the chain and that the lock-wire is present, undamaged, and installed correctly. Make any necessary corrections.	Inspect within the next 30 days after the effective date of this AD. Make any necessary corrections or repairs prior to further flight after the inspection where the problem is found.	Group 1 and Group 4	In accordance with the WORK PROCEDURE section of Vulcanair P68 Series Service Bulletin No. 110, dated March 19, 2002. Repair in accordance with the repair scheme obtained from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD.
(3) Install and modify the following: (i) Split Link, part number NOR7.059–1. (ii) Full Travel Limit Assembly, part number 5.3077–1/–2.	Within the next 30 days after the effective date of this AD.	Group 1 and Group 4	In accordance with the WORK PROCEDURE section of Vulcanair P68 Series Service Bulletin No. 110, dated March 19, 2002.
(4) Inspect bolt part number AN24–18A to verify the correct installation and inspect for the existence of a part number MS21083N4 nut. Correctly install an incorrectly installed bolt and, if missing, install the nut.	Within the next 30 days after the effective date of this AD. Install prior to further flight after the inspection where problems are found.	Group 1, Group 2, Group 3, Group 4, and Group 5.	In accordance with the WORK PROCEDURE section of Vulcanair P68 Series Service Bulletin No. 111 Rev. 1, dated February 20, 2002.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

Note 2: The FAA recommends that owners/operators report results of all inspections required in paragraphs (d)(1), (d)(2)(i), (d)(2)(ii), and (d)(4) of this AD to the manufacturer as stated in the service bulletins.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy, telephone: +39.081.5918111; facsimile: +39.081.5918172. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Italian AD Number 2002–212, dated March 28, 2002; and Italian AD Number 2002–155, dated February 22, 2002.

Issued in Kansas City, Missouri, on July 5, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–17601 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 14, 18, and 75

RIN 1219–AA92

Requirements for Approval of Flame-Resistant Conveyor Belts

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws the proposed rule that would have established a new laboratory-scale flame test for conveyor belts used in underground coal mines. This rulemaking was initiated in 1989 in response to a number, over the prior 12 years, of reportable (*i.e.,* greater than 30 minutes) conveyor belt fires attributable to belt material. Since that time, accident and injury data reflect a decline in the number of these fires. We attribute this decrease in conveyor belt fires to improvements in belt monitoring and maintenance, along with technological advances in conveyor systems. Therefore, in the absence of a need for rulemaking, MSHA is withdrawing the proposed rule.

DATES: This proposed rule published on December 24, 1992, is withdrawn as of July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939, *Nichols-Marvin@msha.gov,* (202) 693–9440 (telephone), (202) 693–9441 (facsimile). You can request a copy of this withdrawal notice in an alternate format, such as a large print version, an electronic file or a file on a disk. This withdrawal notice is available on MSHA's Internet site, *http://www.msha.gov,* at the ''Statutory and Regulatory Information'' icon.

SUPPLEMENTARY INFORMATION:

A. Background

On January 17, 1989, in response to a number of conveyor belt fires in underground coal mines, MSHA announced a public meeting to discuss the development of a revised laboratory-scale flame resistance test for conveyor belts (54 FR 1802). MSHA investigated 293 underground coal mine fires between 1970 and 1988, and determined that conveyor belts were involved in 53 of those fires. During this 19 year period, 36 of the 53 belt fires (68%) occurred during the 9 years between 1980 and 1988.

After reviewing the testimony and comments from the mining and manufacturing communities, as well as the specific recommendations from MSHA's Belt Air Advisory Committee, ''Belt Entry Ventilation Review: Report of Findings and Recommendations'' (1989), MSHA chose to pursue rulemaking. During the next several years, MSHA worked closely with the former Bureau of Mines to develop a new laboratory-scale test for determining the flame resistance of conveyor belts, and the two agencies jointly developed a laboratory-scale test for assessing the flame resistance of conveyor belts which would measure flame propagation rather than burn time, as the current test does. On December 24, 1992, MSHA published the proposed rule (57 FR 61524) which would have replaced the existing standards for testing and acceptance of conveyor belts with the new test.

B. Reasons for Withdrawal

The number of conveyor belt fires has significantly declined since MSHA began work on this rulemaking. During the 10 years since this proposed rule was published (1993–2002), the industry reported 10 conveyor belt fires, as compared with the 34 reported fires during the 10 years before publication (1983–1992). Further, the injuries to miners from the fires reported since MSHA initiated this rulemaking consist of smoke inhalation during two of the fires. This decrease is due largely to belt monitoring improvements that alert miners to potentially hazardous situations which could cause fires, and to technological advances that minimize friction on the belt, a primary cause of belt fires.

The most notable improvement in belt monitoring is the mining industry's increased use of atmospheric monitoring systems (AMS)in conveyor belt passageways. Monitoring systems in general give advance warning to allow a fire in a belt entry to be addressed sooner, thereby limiting potential fire damage and injuries to miners. An AMS can further provide advance warning of carbon monoxide (CO) and methane (CH_4) concentrations, thereby allowing the opportunity to address potentially hazardous situations.

Although AMSs have been in use for many years, these systems have rapidly become more sophisticated, evolving from simple monitors into complex devices with integral computer technology capable of transmitting environmental measurements from remote locations to attended mine areas.

The industry practice of ventilating active working places in the mine with air coursed through the belt haulageway has contributed to the increased use of belt monitoring systems, and has thereby indirectly contributed to the decrease in the severity of belt fires. Currently this practice is only allowed in a mine after MSHA grants a petition for modification of the safety standard that requires entries used to course air to the mine face and working areas to be separate from belt haulage entries.

During the past 15 years, MSHA has granted more than 100 of these petitions. Each petition involves a thorough on-site investigation to determine that safety measures exist to address the concerns normally associated with coursing belt air to working places. The primary concern is combustion products from a fire on or near the conveyor belt being carried to the miners. The required system of safeguards, which includes ability to monitor and detect conditions which could contribute to fires in the belt haulageway, is actively in place at all these mines. MSHA is currently pursuing a separate rulemaking that would permit the use of belt air in active working places, conditioned on the use of AMS systems, required for approval of these petitions, as well as additional safety measures.

The mining industry has also benefitted from many technological advances in conveyor belt systems, and has applied this technology at many mines since this proposed rule was published. Improvements in belt rollers, roller bearings, slippage alignment, and belt rip detection have been instrumental in minimizing friction. Also, flame-resistant pulley lagging and roller covers are available for belt rollers. Some roller bearings are permanently sealed, which prevents combustible lubricants from igniting and involving the belt, and also eliminates some maintenance requirements. A number of slippage control systems which monitor the sequence systems on each conveyor are in use today. When a conveyor is not moving, a slippage switch automatically shuts down all conveyors behind the stopped conveyor. Rip detection systems continually scan the belt and notify miners of rips or tears.

A number of devices, such as chute liners and belt skirting, control the flow of coal at transfer points. These devices not only reduce the amount of coal that spills, thereby minimizing a source of combustible material, but also help reduce the level of combustible coal dust in the atmosphere. Finally, automated systems provide more reliable and accurate readings of

conditions that could potentially result in hazards to miners.

For all the reasons stated herein, this proposed rule is withdrawn.

Signed at Arlington, VA, this 8th day of July 2002.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 02–17652 Filed 7–12–02; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–240–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are proposing the removal of two instructions to the State of Kentucky pertaining to required amendments to the Kentucky regulatory program (the ''Kentucky program''). The Kentucky program was established under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) and authorizes Kentucky to regulate surface coal mining and reclamation operations in Kentucky. We are proposing to remove the instructions because the actions we required have either been satisfied or are no longer applicable and nothing further is required by the state. This document gives the times and locations that the Kentucky program is available for your inspection, the comment period during which you may submit written comments on the proposed actions, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on these proposed actions until 4 p.m., e.s.t. August 14, 2002. If requested, we will hold a public hearing on the proposed actions on August 9, 2002. We will accept requests to speak at a hearing until 4:00 p.m., e.s.t. on July 30, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859)260–8400. E-mail: *bkovacic@osmre.gov.*

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502)564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859)260–8400. Internet: *bkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Actions

At 30 CFR 917.16(c)(2), we required Kentucky to submit proposed regulations to implement the program changes contained in Senate Bill (SB) 374. SB 374 added a new section to Kentucky's statutes pertaining to the issuance of special permits for the remining of previously affected mined areas. However, SB 374 specifically prohibits its own implementation until implementing regulations are promulgated by Kentucky and approved by OSM. In addition, 30 CFR 732.17(g) prohibits States from implementing proposed amendments to their programs until OSM approves the amendments. Because OSM determined that SB 374 could not be implemented without accompanying regulations, SB 374 is not a functioning part of the approved State program until promulgation of such regulations. *See* 51 FR 26002, 26005 (July 18, 1986). For these reasons, the requirement codified at 30 CFR 917.16(c)(2) is unnecessary and should be removed.

At 30 CFR 917.16(o), we required Kentucky to submit a program change to the Kentucky Revised Statutes at 350.060 to: (1) clarify that a person may not continue to conduct surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired, and (2) require the issuance of an imminent harm cessation order to any person conducting surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired. On September 6, 2000, we announced the preemption and supersession of KRS 350.060(16) because it was inconsistent with the requirements of SMCRA (65 FR 53909). Because both our disapproval and subsequent supersession of the quoted provisions of the statute prevent Kentucky from implementing those provisions, and because the Kentucky program otherwise requires issuance of imminent harm cessation orders to persons conducting surface coal mining operations under expired permits, we believe that the requirements codified at 30 CFR 917.16(o) are no longer necessary and should therefore be removed.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given

above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Lexington Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. KY–231–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t., July 30, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C)of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a

substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 10, 2002.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02–17654 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SPATS No. MT–023–FOR]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the ''Montana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposes revisions, additions, and deletions to rules and statutes about the definitions, ownership and control, baseline information, maps, prime farmland, reclamation plan, ponds and embankments, transportation facilities plan, coal processing plants and support facilities, permit application, permit conditions, permit revisions, permit renewal, backfilling and grading requirements, small depressions, burial and treatment of exposed mineral seams, storage and final disposal of garbage, disposal of offsite-generated waste and fly ash, contouring, buffer zones, thick overburden and excess spoil, thick overburden and disposal of excess spoil, permanent cessation of operations, roads and railroad loops, soil removal, blasting schedule, permanent sealing of drilled holes, water quality performance standards, reclamation of drainages, sedimentation ponds and other treatment facilities, discharge structures and outflow structures, permanent and temporary impoundments, groundwater monitoring, surface water monitoring, wells and underground operations, redistribution and stockpiling of soil, establishment of vegetation, soil amendments and other management techniques, other revegetation comparison standards, vegetation production, cover, diversity, density, and utility requirements, measurement standards for trees, shrubs, and half-shrubs, postmining land use, alternate reclamation, general performance standards, subsidence controls, disposal of underground development waste, disposal of coal processing waste, information and monthly reports, renewal and transfer of permits, drill holes, roads and other transportation facilities, removal of equipment, test pits, bond release procedures, notice of intent to prospect, bonding, reassertion of jurisdiction, areas upon which coal mining is prohibited, designation of lands unsuitable, small operator assistance program, certification of blasters, and blaster training courses. Montana also proposes to recodify the Administrative Rules of Montana from ARM 26.4 to ARM 17.24. Montana intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the Montana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., [m.d.t.] August 14, 2002. If requested, we will hold a public hearing on the amendment on August 9, 2002. We will accept requests to speak until 4 p.m., [m.d.t.] on July 30, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Montana program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting Office of Surface Mining Reclamation and Enforcement's (OSM) Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East B Street, Casper, WY 82601–1918, (307) 261–6550, *guypadgett@osmre.gov.*

Neil Harrington, Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, 1520 E. Sixth Ave., PO Box 200901, Helena, MT 59620–0901, (406) 444–4964, *nharrington@st.mt.us.*

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–6550. Internet: *guypadgett@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Description of the Proposed Amendment

By letter dated May 7, 2002, Montana sent us a proposed amendment to its program (SPATS No. MT–023–FOR; Administrative Record No. MT–20–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to letters dated March 29, 1990; June 5, 1996; January 13, 1997; and June 26, 1997 (Administrative Record Nos. MT–60–07, MT–60–09, MT–60–10, and MT–60–11) that we sent to Montana in accordance with 30 CFR 732.17(c), in response to the required program amendment at 30 CFR 926.16(e)(9), and to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

The provisions of the Administrative Rules of Montana (ARM) that Montana proposes to revise, add or delete are: ARM 17.24.301(13), (34), (38), (46), (64), (69), (71), (72), (75), (95), (101), (103), (104), and (105), Definitions; 17.24.302, Format and Supplemental Information; 17.24.303, Legal, Financial, Compliance, and Related Information; 17.24.304, Baseline Information: Environmental Resources; 17.24.305, Maps; 17.24.306, Baseline Information: Prime Farmland Investigation; 17.24.313, Reclamation Plan; 17.24.315, Plan for Ponds and Embankments; 17.24.321, Transportation Facilities Plan; 17.24.324, Prime Farmland: Special Application Requirements; 17.24.327, Coal Processing Plants and Support Facilities Not Located Within a Mine Permit Area: Special Application Requirements; 17.24.401, Filing of Application and Notice; 17.24.403, Informal Conference; 17.24.404, Review of Application; 17.24.405, Findings and Notice of Decision; 17.24.413, Conditions of Permit; 17.24.415, Permit Revisions; 17.24.416, Permit Renewal; 17.24.501, General Backfilling and Grading Requirements; 17.24.501A, Final Grading Requirements; 17.24.503, Small Depressions; 17.24.505, Burial and Treatment of Exposed Mineral Seams and Waste Materials; 17.24.507, Storage and Final Disposal of Garbage and Other Debris; 17.24.510, Disposal of Off-site Generated Waste and Fly Ash; 17.24.514, Contouring; 17.24.518, Buffer Zones; 17.24.519A, Thick Overburden and Excess Spoil; 17.24.520, Thick Overburden and Disposal of Excess Spoil; 17.24.522, Permanent Cessation of Operations; 17.24.601, General Requirements for Road and Railroad Loop Construction; 17.24.603, Road and Railroad Loop Embankments; 17.24.604, Soil Removal; 17.24.605, Hydrologic Impact of Roads and Railroad Loops; 17.24.606, Surfacing of Roads; 17.24.607, Maintenance of Roads and Railroad Loops; 17.24.623, Blasting Schedule; 17.24.625, Seismograph Measurements; 17.24.632, Permanent Sealing of Drilled Holes; 17.24.633, Water Quality Performance Standards; 17.24.634, Reclamation of Drainages; 17.24.639, Sedimentation Ponds and Other Treatment Facilities; 17.24.640, Discharge Structures and Outflow Structures; 17.24.642, Permanent and Temporary Impoundments; 17.24.645, Groundwater Monitoring; 17.24.646, Surface Water Monitoring; 17.24.647, Transfer of Wells; 17.24.652, Wells and Underground Openings: Safety; 17.24.702, Redistribution and Stockpiling of Soil; 17.24.711, Establishment of Vegetation; 17.24.713, Timing of Seeding and Planting; 17.24.716, Method of Revegetation; 17.24.718, Soil Amendments and Other Management Techniques; 17.24.724, Use of Revegetation Comparison Standards; 17.24.725, Period of Responsibility; 17.24.726, Vegetation Production, Cover, Diversity, Density, and Utility Requirements; 17.24.728, Composition of Vegetation; 17.24.733, Measurement Standards for Trees, Shrubs, and Half-Shrubs; 17.24.762, Postmining Land Use; 17.24.815, Prime Farmlands: Revegetation; 17.24.821, Alternate Reclamation: Submission of Plan; 17.24.823, Alternate Reclamation: Approval of Plan and Review of Operations; 17.24.825, Alternate Reclamation: Alternate Revegetation; 17.24.826, Alternate Reclamation: Period of Responsibility for Alternate Revegetation; 17.24.901, General Application and Review Requirements; 17.24.903, General Performance Standards; 17.24.911, Subsidence Control; 17.24.924, Disposal of Underground Development Waste: General Requirements; 17.24.925, Disposal of Underground Development Waste: Valley Fill; 17.24.927, Disposal of Underground Development Waste: Durable Rock Fills; 17.24.932, Disposal of Coal Processing Waste; 17.24.1001, Permit Requirement; 17.24.1002, Information and Monthly Reports; 17.24.1003, Renewal and Transfer of Permits; 17.24.1005, Drill Holes; 17.24.1006, Roads and Other Transportation Facilities; 17.24.1010, Removal of Equipment; 17.24.1014, Test Pits: Application Requirements, Review Procedures, Bonding, and Additional Performance Standards; 17.24.1017, Bond Release Procedures for Drilling Operations; 17.24.1018, Notice of Intent to Prospect; 17.24.1103, Bonding: Period of Responsibility for Alternate Revegetation; 17.24.1104, Bonding: Adjustment of Amount of Bond; 17.24.1108, Bonding: Certificates of Deposit; 17.24.1111, Bonding: Bond Release Application Requirements; 17.24.1112, Bonding: Advertisement of Release Applications and Receipt of Objections; 17.24.1116, Bonding: Criteria and Schedule for Release of Bond; 17.24.1116A, Reassertion of Jurisdiction; 17.24.1132, Areas Upon Which Coal Mining is Prohibited: Definitions and Standard for Measurement of Distances; 17.24.1143, Designation of Lands Unsuitable: Prospecting on Designated Lands; 17.24.1221, Small Operator Assistance Program: Program Services; 17.24.1222, Small Operator Assistance Program: Eligibility for Assistance; 17.24.1223, Small Operator Assistance Program: Filing for Assistance; 17.24.1224, Small Operator Assistance Program: Application Approval and Notice; 17.24.1225, Small Operator Assistance Program: Data Requirements; 17.24.1226, Small Operator Assistance Program: Qualification of Laboratories, Consultants, and Contractors; 17.24.1228, Small Operator Assistance Program: Applicant Liability; 17.24.1261, Certification of Blasters and 17.24.1262, Blaster Training Courses. In addition, Montana proposes to recodify its rules from ARM 26.4 to 17.24.

The provisions of the Montana Code Annotated (MCA) that Montana proposes to revise are: MCA 82–4–205,

Administration by Department; 82–4–206, Procedure for Contested Case Hearings; 82–4–231, Submission of and Action on Reclamation Plan; 82–4–241, Receipts Paid into General Fund; and 82–4–254, Violation-Penalty-Waiver.

Specifically, Montana proposes to revise the definitions of ''approximate original contour,'' ''occupied residential dwelling and structures related thereto,'' ''excess spoil,'' ''other treatment facilities,'' ''owned or controlled and owns or controls,'' ''soil survey,'' and ''sedimentation pond;'' add definitions of ''domestic water supply,'' ''habit or characteristic pattern,'' ''material damage,'' ''non-commercial building,'' ''railroad loop,'' ''replace adversely affected domestic water supply;'' and recodify other definitions at ARM 17.24.301.

At ARM 17.24.302, Montana proposes to refer to Federal lands instead of Federal coal, and revise the number of applications required for submission.

At ARM 17.24.303, Montana proposes to allow the applicant to request confidentiality on proprietary information.

At ARM 17.24.304, Montana proposes clarification revisions.

At ARM 17.24.305, Montana proposes revisions to delete qualified, registered land surveyors or professional geologists and only allow qualified licensed professional engineers and revisions concerning the preparation of maps.

At ARM 17.24.306, 17.24.324, 17.24.401, 17.24.724, 17.24.815, 17.24.823, and 17.24.825, Montana changes the reference from the U.S. soil conservation service to the U.S. natural resources conservation service.

At ARM 17.24.313, 17.24.632, 17.24.647, 17.24.652, 17.24.903, 17.24.925, 17.24.1001, 17.24.1005 through 17.24.1018, 17.24.1132, and 17.24.1143, Montana deletes ''exploration'' and adds ''prospecting.''

At ARM 17.24.315, Montana revises cross-references and adds requirements for a stability analysis and foundation information concerning ponds and embankments.

At ARM 17.24.321, Montana adds clarifying information concerning the transportation facilities plan, changes ''rail system'' to ''railroad loop'' and adds requirements for ramp roads.

At ARM 17.24.327, Montana revises a cross-reference.

At ARM 17.24.403, Montana makes grammatical revisions.

At ARM 17.24.404, Montana clarifies that if the initial judicial hearing authority either denies a stay or affirms a violation concerning a permit application, then the coal mining operations must be terminated within 30 days of the judicial decision unless the applicant provides proof that the violation has been or is in the process of being resolved to the satisfaction of the agency having jurisdiction over the violation.

At ARM 17.24.405, Montana proposes to delete an obsolete provision concerning OSM preparing written findings on Federal lands.

At ARM 17.24.413, Montana corrects a grammatical error.

At ARM 17.24.415, Montana clarifies language concerning permit revision applications.

At ARM 17.24.416, Montana deletes language referring to major permit revisions which they believe belongs in another section.

At ARM 17.24.501, Montana makes editorial revisions and adds necessary language concerning final grading requirements from 17.24.501A.

At ARM 17.24.501A, Montana proposes to delete this section and transfer the necessary programmatic language to ARM 17.24.501.

At ARM 17.24.503, Montana proposes to allow small depressions for wildlife use and eliminate size restriction on depressions.

At ARM 17.24.505, Montana proposes to add exposed mineral seams to this rule concerning the burial and treatment of waste materials, clarify that impoundments may not include acid, acid-forming, toxic, or toxic-forming wastes, and allow greater flexibility in the covering of exposed mineral seams with a requirement for a demonstration of protection with a lesser cover depth.

At ARM 17.24.507, Montana proposes to correct a cross-reference to PL 94–580.

At ARM 17.24.510, Montana primarily proposes to add and revise cross-references.

At ARM 17.24.514, Montana proposes to delete this rule as it is not needed.

At ARM 17.24.518, Montana proposes to correct a grammatical error.

At ARM 17.24.519A, Montana proposes to delete this rule and move the language to 17.24.520.

At ARM 17.24.520, Montana has added the former language from 17.24.519A, clarified that excess spoil would be used to eliminate highwalls, and has recodified the rule's subsections.

At ARM 17.24.522, Montana clarifies that an operator who permanently ceases mining operations, whether in all or part of the permit area, shall close or backfill and otherwise reclaim all affected areas, regardless of whether the permit has expired, been revoked, or suspended.

At ARM 17.24.601, Montana proposes to delete much of this rule due to obsolete provisions concerning roads, add railroad loop construction, and clarify other subsections.

At ARM 17.24.603, Montana proposes to make this rule applicable to only road and railroad loop embankments as 17.24.639 addresses sediment pond embankments.

At ARM 17.24.604, Montana proposes to delete this rule concerning soil removal as it is covered at 17.24.701.

At ARM 17.24.605, Montana proposes to delete redundant or unnecessary language concerning the hydrologic impact of roads, make the rule applicable to railroad loops, and allow greater flexibility in impounding water under certain conditions at the site of water control structures.

At ARM 17.24.606, Montana proposes to delete this rule concerning the surfacing of roads as it is covered at 17.24.601.

At ARM 17.24.607, Montana proposes to add railroad loops to the maintenance of roads and eliminate other redundancies.

At ARM 17.24.623, Montana proposes to eliminate restrictions on when blasting may proceed.

At ARM 17.24.625, Montana corrects a cross-reference.

At ARM 17.24.633, Montana proposes clarifications to language concerning water quality performance standards.

At ARM 17.24.634, Montana proposes: (1) Various editorial revisions; (2) to move the definition of ''natural habit and characteristic pattern of streams'' to 17.24.301(46); (3) to delete the 120 day requirement for the design submittal '' for more flexibility; (4) to eliminate the requirement that designs be certified by a registered, professional engineer; (5) to eliminate the requirement that the Department inspect all drainage channels prior to resoiling and seeding; and (6) to disallow an exception to having a channel ''approximate an appropriate geomorphic habit or characteristic pattern.''

At ARM 17.24.639, Montana proposes various changes to: (1) Revise the amount of sediment storage from 0.035 ac-ft/acre to 0.02 ac-ft per acre; (2) delete the requirement for a bathymetric survey; (3) make clarification, redundancy, and editorial corrections; (4) eliminate the requirement that excavated ponds require spillways; (5) make revisions in accordance with OSM's part 732 letter dated June 26, 1997, concerning the Energy Policy Act; (6) allow more flexibility for accounting for embankment settlement; and (7) allow steeper interior slopes for excavated ponds.

At ARM 17.24.640, Montana proposes to expand this rule concerning discharge structures to cover outflow sites.

At ARM 17.24.642, 17.24.645, and 17.24.646, Montana proposes to correct various cross-references.

At ARM 17.24.702, Montana proposes wording revisions for clarification.

At ARM 17.24.711, Montana proposes to add the requirement for a ''predominance of native species'' and self-regeneration of plants, and to correct a cross-reference.

At ARM 17.24.713, Montana proposes to delete the 90-day seeding requirement.

At ARM 17.24.716, Montana proposes to transfer a requirement for a permanent diverse vegetative cover of predominantly native species to 17.24.711 and provide a cross-reference to the statutes.

At ARM 17.24.718, Montana makes a grammatical correction.

At ARM 17.24.725, 17.24.726, and 17.24.728, Montana proposes to revise the cross-references to the correct statute citation.

At ARM 17.24.733, Montana proposes to delete a measurement standard for trees, shrubs, and half-shrubs, which has no Federal requirement.

At ARM 17.24.762, Montana proposes to revise the cross-reference to the correct rule citation.

At ARM 17.24.821 and 17.24.825, Montana proposes language to clarify cross-references and technical standards.

At ARM 17.24.826, Montana proposes a new rule to replace 17.24.1103.

At ARM 17.24.901 and 17.24.911, Montana proposes various revisions to address OSM's June 5, 1996, part 732 letter concerning the Energy Policy Act, which requires the prompt repair or compensation for material damage caused by subsidence to noncommercial buildings and occupied residential dwelling and related structures caused by underground coal mining operations conducted after October 24, 1992; and the replacement of drinking, domestic, and residential water supplies that have been adversely impacted by surface or underground coal mining operations conducted after that date.

At ARM 17.24.924, Montana proposes to delete subsection (15).

At ARM 17.24.927 and 17.24.932, Montana revises a cross-reference due to the deletion of ARM 17.24.924(15).

At ARM 17.24.1001, Montana proposes new language to alert landowners to the prospector's liability under a prospecting permit and the Department's responsibility to inspect prospecting operations for compliance with the Act, the rules, and permit conditions.

At ARM 17.24.1002, Montana proposes revisions relating to prospecting operations which substantially disturb land or water resources and adds a requirement that annual reports be filed for prospecting operations in accordance with the statues at MCA 82–4–226 and 82–4–237.

At ARM 17.24.1003, Montana proposes a new rule to reiterate language contained at 17.24.418.

At ARM 17.24.1014, Montana proposes to add the requirements that the notice of application be published by the applicant, and that the affirmative demonstration and written findings required for the application also address coal test pit prospecting.

At ARM 17.24.1018, Montana adds the requirements that the notice of intent to prospect include copies of the documents upon which the applicant bases his or her legal right to prospect on the land affected, as well as document that the landowners have been contacted concerning the notice of intent to prospect.

At ARM 17.24.1103, Montana proposes to delete this rule and insert it at ARM 17.24.826.

At ARM 17.24.1104, Montana proposes a new subsection to address bonding and OSM's June 5, 1996, part 732 letter concerning the Energy Policy Act.

At ARM 17.24.1108, Montana proposes to delete the reference to the FSLIC (Federal Savings and Loan Insurance Corporation).

At ARM 17.24.1111, Montana has added a requirement that each application for partial or full bond release include a notarized statement certifying that all applicable reclamation requirements have been achieved in accordance with the Act, the rules, and the approved reclamation plan.

At ARM 17.24.1112, Montana proposes to add the phrase ''by any affected person'' concerning the submission of comments on bond release applications.

At ARM 17.24.1116, Montana proposes to insert the language from 17.24.1116A concerning the reassertion of jurisdiction.

At ARM 17.24.1116A, Montana proposes to delete this section, as the language is contained at 17.24.1116.

At ARM 17.24.1221, concerning the small operator assistance program services, Montana adds a provision to allow funds to pay contractors and consultants. In addition, a cross-reference is made to services provided for in ARM 17.24.1225.

At ARM 17.24.1222, concerning the small operator assistance program eligibility, Montana revises the section to allow production of up to 300,000 tons of coal/year. Montana also revises the section to provide that the definition of ownership and control is based upon a greater than 10% interest in the operation.

At ARM 17.24.1223, Montana proposes to revise map specification for programmatic consistency and to allow for a legal right of entry for contractors and consultants participating in the small operator assistance program.

At ARM 17.24.1224, Montana changes the small operator assistance program application approval and notice to allow for contractors and consultants.

At ARM 17.24.1225, Montana adds additional data collection requirements concerning the small operator assistance program.

At ARM 17.24.1226, concerning the small operator assistance program qualification, Montana provides for consultants and contractors, clarifies language, and adds cross-references.

At ARM 17.24.1228, concerning the small operator assistance program liability, Montana provides for contractors and consultants, clarifies the coal production limit of 300,000 tons of coal/year, and makes the coal production limit effective within a 12-month period immediately following the date on which the permit was issued.

At ARM 17.24.1261, Montana proposes revisions to provide consistency with 17.24.1262, to revise the training manual on an as-needed basis, to eliminate cross-reference to a blaster's exam given by the Department of Labor, to lower the refresher course requirement to 16 hours, and to eliminate the option of meeting equivalent requirements for blaster certification.

At ARM 17.24.1262, Montana proposes to delete language which is also provided at 17.24.1261.

At MCA 82–4–205 and 82–4–206, Montana proposes to move the authority to conduct contested case hearings from the Department to the Board.

At MCA 82–4–231, Montana proposes revisions to the timeline for completing an environmental impact statement and adds a reference to a new Montana statute.

At MCA 82–4–241, Montana proposes that bond forfeiture moneys are only used for reclamation of lands on which bond forfeiture has occurred, and that funds held by the Department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the Department is not able to

locate a surety or other person who owns the funds, must be deposited in the state special revenue fund and credited to the environmental rehabilitation and response account.

At MCA 82–4–254, Montana proposes revisions to reflect the change to move the authority for conducting contested case hearings from the Department to the Board.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Montana program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see Dates). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. MT–023-FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at (307) 261–6550.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., [m.d.t.] on July 30, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the

National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on state, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 3, 2002.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 02–17653 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV–2001–4; FRL–7245–5]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for CITGO Petroleum Corporation—Doraville Terminal; Doraville (Dekalb County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated June 5, 2002, denying a petition to object to a state operating permit issued by the Georgia Environmental Protection Division (EPD) to CITGO Petroleum Corporation—Doraville Terminal (CITGO-Doraville) for its facility, located in Doraville, Dekalb County, Georgia. This order constitutes final action on the petition submitted by the Georgia Center for Law in the Public Interest (GCLPI or Petitioner) on behalf of the Sierra Club. Pursuant to section 505(b)(2) of the Clean Air Act (the Act) any person may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/citgo__decision2001.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, object to operating permits proposed by state permitting authorities under title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

GCLPI submitted a petition on behalf of the Sierra Club to the Administrator on August 30, 2001, requesting that EPA object to a state title V operating permit issued by EPD to CITGO-Doraville. The Petitioner maintains that the CITGO-Doraville permit is inconsistent with the Act because the permit: (1) Does not contain adequate monitoring; (2) does not contain adequate reporting requirements related to monitoring; (2) impermissibly limits the use of credible evidence; (3) does not ensure the source's synthetic minor source status; and (4) did not undergo adequate public notice procedures.

On June 5, 2002, the Administrator issued an order denying this petition. The order explains the reasons behind EPA's conclusion that the Petitioner has failed to demonstrate that the CITGO-Doraville permit is not in compliance with the requirements of the Act on the grounds raised.

Dated: June 24, 2002.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 02–17692 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV–2001–3; FRL–7245–6]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Seminole Road Landfill; Ellenwood (Dekalb County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated June 5, 2002, denying a petition to object to a state operating permit issued by the Georgia Environmental Protection Division (EPD) to Seminole Road Landfill (Seminole Landfill) located in Ellenwood, Dekalb County, Georgia. This order constitutes final action on the petition submitted by the Georgia Center for Law in the Public Interest (GCLPI or Petitioner) on behalf of the Sierra Club. Pursuant to section 505(b)(2) of the Clean Air Act (the Act) any person may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/seminole—decision2001.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, object to operating permits proposed by state permitting authorities under title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

GCLPI submitted a petition on behalf of the Sierra Club to the Administrator on August 22, 2001, requesting that EPA object to a state title V operating permit issued by EPD to Seminole Landfill. The Petitioner maintains that the Seminole Landfill permit is inconsistent with the Act because of: (1) The inaccuracy of the permit application; (2) the incompleteness of the permit narrative and the permit itself; (3) the permit's apparent limitation of enforcement authority and credible evidence; (4) inadequate reporting requirements relating to monitoring; and (5) inadequate public notice procedures.

On June 5, 2002, the Administrator issued an order denying this petition. The order explains the reasons behind EPA's conclusion that the Petitioner has failed to demonstrate that the Seminole Landfill permit is not in compliance with the requirements of the Act on the grounds raised.

Dated: June 24, 2002.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 02–17693 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Notice of Availability of a Draft Recovery Plan for the Northern Idaho Ground Squirrel (*Spermophilus brunneus brunneus*), for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability for public review of the Draft Recovery Plan for the Northern Idaho Ground Squirrel (*Spermophilus brunneus brunneus*; squirrel). The draft plan includes specific recovery criteria and measures to be taken in order to delist the squirrel. We solicit review and comment from local, State, and Federal agencies, and the public on this draft recovery plan.

DATES: Comments on the draft recovery plan must be received on or before September 13 2002, to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal working hours at the following location: Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Suite 368, Boise, Idaho 83709 (Phone: 208–378–5243). Requests for copies of the draft recovery plan, and written comments and materials regarding this plan should be addressed to Robert Ruesink, Field Supervisor, at the above address.

FOR FURTHER INFORMATION CONTACT: Rich Howard, Fish and Wildlife Biologist, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. A species is considered recovered when the species' ecosystem is restored and/or threats to the species are removed so that self-sustaining and self-regulating populations of the species can be supported as persistent members of native biotic communities. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.

The Endangered Species Act of 1973, as amended in 1988 (Act) (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during the public comment period prior to approval of this recovery plan. Substantive technical comments may result in changes to the plan. Substantive comments regarding recovery plan implementation will be forwarded to appropriate Federal or other entities for consideration during the implementation of recovery actions.

The squirrel was listed as a threatened species on April 5, 2000. This subspecies is endemic to the Weiser and Little Salmon River Basins in western Idaho. It is distributed in small, isolated populations across two U.S. Forest Service Districts, and State and private lands in Adams and Valley Counties of western Idaho. It formerly occurred in Long Valley and Round Valley of Valley County, but no viable populations have been documented there within the past 5 years. Twenty-three population sites are considered extant; another 14 have unknown status or have become extirpated.

Declines in extant population sites and numbers of squirrels are attributed to the loss and fragmentation of habitat. The squirrel is dependent on meadow and shrub/grassland, and does well in habitat bordered by coniferous forests. However, the species becomes extirpated from areas that develop high densities of small trees. Conifers have displaced the species' food base, and inhibited or prevented dispersal of yearlings and adults between population sites. Land conversion from

meadows and shrub/grasslands to agricultural crops, residential areas, and recreational facilities has also contributed to the eradication of local populations of squirrels.

The objective of this plan is to provided a framework for the recovery of the squirrel so that protection by the Act is no longer necessary. Recovery is contingent on protecting and managing the squirrel's habitat to maintain and enhance viable populations through a range of natural variability.

The squirrel will be considered for delisting when a total of 30 stable population sites are distributed throughout the historic range of the species. Each population site that has maintained a 5-year average size of 100 to 500 individuals will be considered stable. At least 20 of the 30 population sites must be protected. Additionally, genetic exchange between population sites should be occurring through dispersal or linkage corridors; a post-delisting monitoring program should be written and ready to be implemented; and ecological management of habitats should be initiated for all population sites.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: May 16, 2002.

Benito A. Perez,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 02–17685 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI50

Endangered and Threatened Wildlife and Plants; Listing the Plant *Lepidium papilliferum* (slickspot peppergrass) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and notice of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list *Lepidium papilliferum* (slickspot peppergrass) as endangered pursuant to the Endangered Species Act of 1973, as amended (Act). *Lepidium papilliferum* is endemic to sagebrush-steppe habitat in southern Idaho. This species is threatened by a variety of immediate factors including: habitat destruction and fragmentation from agricultural and urban development; activities associated with, and grazing by, domestic livestock; competition from nonnative vegetation; alterations of the natural fire cycle; and fire rehabilitation activities.

We solicit additional data and information that may assist us in making a final decision on this proposed action. We may revise this proposal to incorporate or address new information received during the comment period. This proposal, if made final, would extend the Federal protection and recovery provisions of the Act to this species.

DATES: We will accept comments from all interested parties until the close of business September 13, 2002. A public hearing has been scheduled for Thursday, August 29, 2002, from 1 p.m. until 3 p.m. and from 6 p.m. until 8 p.m in Boise, ID (*see* **ADDRESSES**).

ADDRESSES: *Comment submission:* If you wish to comment, you may submit your comments and materials by one of several methods.

1. You may submit written comments and information to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709.

2. You may hand-deliver written comments to our Snake River Basin Office, at the address given above.

3. You may send comments by electronic mail (e-mail): *fw1srbocomment@fws.gov*. See the Public Comments Solicited section below for file format and other information on electronic filing.

Public Hearing: The public hearing will be conducted at the AmeriTel Inn/Boise Spectrum, 7499 W. Overland Road, Boise, Idaho 83709.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Snake River Basin Office. There are no limits to the length of written comments presented at the hearing or mailed to the Service.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, Snake River Basin Office (*see* **ADDRESSES**) (telephone 208/378–5243; facsimile 208/378–5262). Information regarding this proposal is available in alternative formats upon request.

SUPPLEMENTARY INFORMATION:

Background

Lepidium papilliferum is a herbaceous annual or biennial plant that occurs in sagebrush-steppe habitats at approximately 670 meters (m) (2,200 feet (ft)) to 1,645 m (5,400 ft) elevation in southwestern Idaho. This species is found along the Snake River Plain and Owyhee Plateau in Ada, Canyon, Gem, Elmore, Payette, and Owyhee Counties.

Of 88 known occurrences of *Lepidium papilliferum,* 70 are currently extant (exist), 13 are considered extirpated (extinct), and five are historic (i.e., plants have not been relocated; location information is based on collections made between 1911 and 1974) (Moseley 1994; Mancuso 2000; Shelly Cooke, Idaho Conservation Data Center (ICDC), pers. comm., 2002, ICDC 2002). Occurrences of *L. papilliferum* can include one to several occupied slickspots within an area determined to be suitable habitat. The total amount of habitat containing interspersed slickspots that have extant occurrences of *L. papilliferum* is about 5,000 hectares (ha) (12,356 acres (ac)). Only 6 of the 70 extant occurrences are considered to be high-quality habitat and contain large numbers of the plants (ICDC 2002). The number of *L. papilliferum* individuals at each extant occurrence ranges from 1 to 3,000 (Mancuso 2000; ICDC 2002).

This species is threatened by a variety of activities including urbanization, gravel mining, irrigated agriculture, habitat degradation due to cattle and sheep grazing, fire and fire rehabilitation activities, and continued invasion of habitat by non-native plant species (Moseley 1994; Mancuso and Moseley 1998). As a result of habitat loss and degradation, the documented extirpation rate of *Lepidium papilliferum* populations is the highest known of any Idaho rare plant species (Moseley 1994). The historical (undocumented) loss of *L. papilliferum* may have been even higher during the early 1900s (Mancuso *et al.* 1998) due to the widespread loss and degradation of sagebrush-steppe habitat in southwestern Idaho as a result of urbanization, livestock grazing, and irrigated agriculture (Moseley 1994).

Lepidium papilliferum was originally described as *L. montanum* var. *papilliferum* in 1900 by Louis Henderson. It was included as a distinct species in a recent review of taxa in the mustard family (Brassicaceae) (Rollins 1993). Rollins (1993) based his justification on physical features that *L. papilliferum* possesses and *L. montanum* does not, such as: (1) Trichomes (hairlike structures) occurring on the filaments of stamens (part of flower that produces pollen), which is unique among all North American *Lepidium* species; (2) all the leaves on *L. papilliferum* are pinnately divided, whereas *L. montanum* has

some leaves that are not divided; and (3) the shape of the silique (seed capsule) is different from that of *L. montanum,* and it has no wings, or even vestiges of wings, at its apex (end of the capsule), which also differs from that of *L. montanum* (Moseley 1994).

Lepidium papilliferum is an annual or biennial plant that reaches 10 to 30 centimeters (cm) (4 to 12 inches (in)) in height. Leaves and stems are pubescent (covered with fine, soft hairs), and the divided leaves have linear segments (Moseley 1994). Numerous small, white, 4-petalled flowers terminate the branches. This species produces small, orbicular (spherical) fruits (siliques), which are approximately 3 millimeters (0.1 in) long. *Lepidium papilliferum* is mainly pollinated by bees (Apidae, Colletidae, and Halictidae families), flies (Syrphidae family), and some beetle species (Dermestidae and Cerambycidae families (Robertson 2001). The primary seed dispersal mechanism is probably gravity, although wind and water may have a minor role (Moseley 1994). *Lepidium papilliferum* seeds may be viable in the soil for up to 12 years (Dana Quinney, *in litt.,* 2002).

Lepidium papilliferum occurs in semi-arid sagebrush-steppe habitats on the Snake River Plain, Owyhee Plateau, and adjacent foothills in southern Idaho. Associated native species include *Artemisia tridentata* ssp. *wyomingensis* (Wyoming big sagebrush), *A. tridentata* ssp. *tridentata* (basin big sagebrush), *Agropyron spicatum* (bluebunch wheatgrass), *Stipa thurberiana* (Thurber's needlegrass), *Poa secunda* (Sandberg's bluegrass), and *Sitanion hystrix* (bottlebrush squirreltail). Non-native species frequently associated with *L. papilliferum* include *Bromus tectorum* (cheatgrass), *Sisymbrium altissimum* (tumble mustard), *Ranunculus testiculatus* (bur buttercup), *Lepidium perfoliatum* (clasping pepperweed), and *Agropyron cristatum* (crested wheatgrass) (Moseley 1994; Mancuso and Moseley 1998).

Lepidium papilliferum is restricted to small areas, similar to vernal pools, known as slickspots (also called mini-playas or natric sites). Slickspots range from less than 1 square meter (m^2) (10 square feet (ft^2)) to about 10 m^2 (110 ft^2) within communities dominated by other plants (Mancuso *et al.* 1998). *Lepidium papilliferum* is limited to slickspots covering a relatively small area. These sparsely vegetated microsites are very distinct from the surrounding shrubland vegetation, and are characterized by relatively high concentrations of clay and salt (Fisher *et al.* 1996). The microsites also have reduced levels of organic matter and nutrients due to the lower biomass production compared to surrounding habitat areas. The restricted distribution of *L. papilliferum* is likely a product of the scarcity of these extremely localized, specific soil conditions, and the loss and degradation of these habitat areas throughout southwestern Idaho.

Like many short-lived plants growing in arid environments, the above-ground number of *Lepidium papilliferum* individuals at any one site can fluctuate widely from one year to the next depending on seasonal precipitation patterns (Mancuso and Moseley 1998; Mancuso 2001). Flowering individuals represent only a portion of the population, with the seed bank contributing the remainder, and apparently the majority, in many years (Mancuso and Moseley 1998). For annual plants, maintaining a seed bank (a reserve of dormant seeds, generally found in the soil) is important for year-to-year and long-term survival (Baskin and Baskin 1978). A seed bank includes all of the seeds in a population and generally covers a larger area than the extent of observable plants seen in a given year (Given 1994). The number and location of standing plants (the observable plants) in a population varies annually due to a number of factors, including the amount and timing of rainfall, temperature, soil conditions, and the extent and nature of the seed bank. The extent of seed bank reserves is variable from population to population, and large fluctuations in the number of standing plants at a given site may occur from one year to the next. Depending on the vigor of the individual plant and the effectiveness of pollination, dozens, if not hundreds of seeds could be produced.

For example, in 1998, approximately 16,000 *Lepidium papilliferum* plants were counted along 45 transects situated within 40 occurrences monitored by Mancuso (2000). In 1999, only 3,060 *L. papilliferum* plants were counted along these same transects and two additional ones. Mancuso (2001) continued his monitoring of these transects in 2000, and tallied about 7,100 *L. papilliferum* plants. Much of the slickspot habitat for *L. papilliferum* occurs within a complex of the larger sagebrush-steppe habitat described above.

The displacement of native plants by nonnative species is a major problem in sagebrush-steppe habitats of the Intermountain region (Rosentreter 1994; Ann DeBolt, Bureau of Land Management (BLM), pers. comm., 1999). Widespread grazing by livestock in the late 1800s and early 1900s severely degraded sagebrush-steppe habitat, enabling introduced annual species (especially cheatgrass) to become dominant over large portions of the Snake River Plain (Yensen 1980; Moseley 1994). The invasion of cheatgrass has shortened the fire frequency of the sagebrush-steppe from between 60 to 110 years, to less than 5 years as it provides a continuous, highly flammable fuel through which a fire can easily spread (Whisenant 1990; Moseley 1994; Mancuso and Moseley 1998). The result has been the permanent conversion of vast areas of the former sagebrush-steppe ecosystem into nonnative annual grasslands. An estimated 2 to 2.43 million ha (5 to 6 million ac) of sagebrush-steppe in the western Snake River basin has been converted to nonnative annual vegetation dominated by cheatgrass and *Taeniatherum caput-medusae* (medusahead) (Noss *et al.* 1995), primarily due to continued overgrazing and fire. The continued cumulative effects of overgrazing and fire suppression permit the invasion of nonnative plant species into slickspot habitats (Rosentreter 1994). *Lepidium papilliferum* populations typically decline or are extirpated following the replacement of sagebrush-steppe habitat by nonnative annuals.

Another problem has been the use of nonnative perennial species, such as *Agropyron cristatum* and *A. intermedium* (intermediate wheatgrass), to restore or rehabilitate shrub-steppe habitat after a fire event. Although some *Lepidium papilliferum* may temporarily persist in spite of these restoration seedings, most occurrences support small numbers of plants (fewer than five per slickspot) and long-term persistence data are unavailable (Mancuso and Moseley 1998). Habitat degradation, fragmentation, and loss of sagebrush-steppe vegetation have occurred throughout the range of *L. papilliferum.* Popovich (2001) found in his surveys for *L. papilliferum* in the Inside Desert area on BLM land in 2000 that, generally, slickspots dominated by nonnative vegetation had fewer *L. papilliferum* plants than slickspot sites with greater native vegetation retention.

In 1997, an effort was initiated by the ICDC to develop an ecological integrity index for assessing and monitoring *Lepidium papilliferum* habitat in southwestern Idaho (Mancuso and Moseley 1998). This monitoring includes the following components: (1) an Integrity Condition Rating to assess the overall habitat condition, which includes those attributes associated with the slickspot microsite and the shrub-steppe habitat. Integrity Condition Ratings are ranked as ''good'', ''fair'', or

''poor''; and (2) an Occurrence Viability Rank which provides a scale to assess the prospects that an occurrence will persist over time, and includes factors affecting the viability and defensibility of the occurrence (Mancuso 2001). The four Occurrence Viability Rankings are: (1) A-ranked occurrences are those sites found in the highest quality communities; these occurrences generally have not been burned and are not dominated by nonnative annuals; (2) B-ranked occurrences typically consist of good to high quality habitat; (3) C-ranked occurrences are generally in fair to low-quality habitat; some of these occurrences are highly disturbed and are not expected to remain viable; and (4) D-ranked occurrences are in degraded habitats; these occurrences are not expected to remain viable (Moseley 1994).

Currently, only 6 (9 percent) of the 70 extant *Lepidium papilliferum* occurrences are A-ranked; 9 (13 percent) are B-ranked; 2 (3 percent) are B/C-ranked; 20 (29 percent) are C-ranked; 1 (1 percent) is C/D-ranked; and 17 (24 percent) are D-ranked (ICDC 2002). Fifteen occurrences are not ranked (21 percent) due to a lack of information on habitat characteristics (S. Cooke, pers. comm., 2002).

Previous Federal Action

Federal Government actions for the plant began in 1990 when this species (as *Lepidium montanum* var. *papilliferum*) was designated as a category 2 candidate in the February 21, 1990 (55 FR 6184) Notice of Review. Category 2 candidates were those for which information in our possession indicated that proposing to list as endangered or threatened was possibly appropriate, but sufficient data to support proposed rules were not currently available. This taxon was retained as a category 2 candidate in the September 30, 1993 (58 FR 51144) Notice of Review. Upon publication of the February 28, 1996 Notice of Review (61 FR 7596), we ceased using candidate category designations. *Lepidium papilliferum* was not included as a candidate species in this notice. We reinstated the species as a candidate species, with a listing priority number of 2, in the October 25, 1999, Notice of Review (64 FR 57534). The species was again listed as a candidate in the October 30, 2001, Notice of Review (66 FR 54808).

On April 9, 2001, we received a petition dated April 4, 2001, from the Committee for Idaho's High Desert, the Western Watersheds Project, the Wilderness Society, and the Idaho Conservation League (Petitioners) asking us to list *Lepidium papilliferum* as threatened or endangered, and on an emergency basis. The petition submitted information stating that this species is threatened by competition with nonnative and woody vegetation, improper livestock grazing practices, improper herbicide application, inbreeding depression, and fire suppression. We responded to the Petitioners with a letter dated April 27, 2001, stating that the species was already identified as a candidate, and we do not publish petition findings on candidate species since we have already determined that their listing is warranted (Service 2001). We also stated that our initial review of their petition did not indicate an emergency situation existed.

On November 6, 2001, the Petitioners filed a complaint for our failure to emergency list *Lepidium papilliferum* as threatened or endangered, and our failure to proceed with a proposed rule to list *L. papilliferum* as endangered or threatened on a non-emergency basis (*Committee for Idaho's High Desert and Western Watersheds Project* v. *Anne Badgley, et al.* (Case No. CV 01–1641–AS)). On April 2, 2002, based on a settlement agreement between us and the Petitioners, the court signed an order requiring us to submit for publication in the **Federal Register** a proposal to list the species by July 15, 2002. This proposed rule complies with the settlement agreement.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors, and their application to *Lepidium papilliferum,* are as follows:

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

Most sagebrush-steppe habitat that has not been converted to cropland in southwestern Idaho has been degraded by wildfire, livestock grazing and trampling, the invasion of nonnative plant species, and off-road vehicle use; these factors continue to threaten all remaining habitat for *Lepidium papilliferum* (Moseley 1994; Mancuso and Moseley 1998; ICDC 1999; Mancuso 2000). The conversion of the original sagebrush-steppe to annual grasslands has reduced suitable remaining habitat for, and destroyed some, *L. papilliferum,* in addition to fragmenting and isolating extant occurrences (Moseley 1994). Subsequent increased frequency of fire, and the associated invasion of weedy annual plants, are serious range-wide threats to the long-term integrity of *L. papilliferum* habitat and population viability (M. Mancuso, *in litt.,* 1998).

To illustrate the pattern of ongoing habitat degradation for this species, in 1994, 12 *Lepidium papilliferum* occurrences were given a ''B'' rank (Moseley 1994). By 1998, eight of these occurrences (67 percent) had declined in quality to either a ''C'' or ''D'' rank due to the effects of habitat degradation and fragmentation (M. Mancuso, *in litt.,* 1998). Lower quality (*i.e.*, C- and D-ranked) occurrences are not likely to persist in the future. Examples of decline in habitat quality include two *L. papilliferum* occurrences near Kuna Butte on BLM lands. *Lepidium papilliferum* habitat at one site south of Kuna (Initial Point) that received an A-rank in 1994 had declined to a D-rank by 1998. Recent wildfires in the area destroyed the original sagebrush vegetation which has now been largely replaced by nonnative species. Mechanical fire rehabilitation efforts also adversely affected the slickspots; less than 0.04 ha (0.1 ac) of occupied habitat now exists at this site (M. Mancuso, *in litt.,* 1998; ICDC 1999). Another *L. papilliferum* occurrence south of Kuna (Kuna Butte) declined from an A-rank in 1994 to a C-ranking in 1998 due to habitat degradation from fire, post-fire rehabilitation efforts, and the invasion of nonnative species which now dominate the vegetation; occupied *L. papilliferum* habitat at this occurrence is also restricted to less than 0.04 ha (0.1 ac) (ICDC 1999). Both occurrences are now considered to have poor habitat quality.

Livestock effects on unique habitats such as slickspots are magnified in areas where nonnative plant invasions and altered fire regimes occur. Arid soils with inorganic crusting are more susceptible to impacts when soils are wet (Belnap *et al.* 1999). Slickspots are characterized by a near-surface distribution of soluble sodium salts, thin vesicular (small cavity) surface crusts, and shallow well-developed argillic (relating to clay mineral) horizons (Fisher *et al.* 1996). Slickspots often contain some surface water in the winter, spring, and after thundershowers (Fisher *et al.* 1996; James Klott, BLM, pers. comm., 2000). Water that is present for more than a day often will attract livestock to slickspots (J. Klott, pers. comm., 2000).

Livestock trampling of slickspots is one of the main disturbances to slickspot microsites (Mancuso 2001), especially in the spring (approximately April through June) when the soils are moist. Trampling by livestock can physically damage the vegetation that exists there and compact the soil, which greatly accelerates desertification processes (becoming more like a desert) through increased soil loss and water runoff (Moseley 1994; D. Quinney and Jay Weaver, Idaho Army National Guard (IDARNG), pers. comm., 1998; J. Klott, pers. comm., 2000; Popovich 2001). This can also lead to the loss of slickspot integrity, particularly from winter through spring when standing water remains for a longer period of time after a rainfall (Belnap *et al.* 1999; BLM *et al. in litt.,* 1999; Air Force 2000). A majority (78 percent) of *Lepidium papilliferum* occurrences had evidence of livestock trampling and grazing in a study conducted by Mancuso (2000) that monitored 40 extant sites.

Livestock trampling of slickspots can also lead to the invasion or increase of nonnative annual species such as *Bromus tectorum, Sisymbrium altissimum, Ranunculus testiculatus,* and *Lepidium perfoliatum* into shrub-steppe habitats through transport of the seeds of these species by animals in their feces or hides (Ellison 1960; Pyke 1999). The majority of the 40 extant *Lepidium papilliferum* occurrences being monitored (92 percent of the 40) had invasive annual grasses that either dominated or co-dominated the herbaceous vegetation (Mancuso 2000).

Slickspots are small areas of habitat that are relatively free of organic debris and nutrients. The presence of livestock in an area with slickspots generally results in increases in organic debris, such as livestock feces, especially when the slickspots have standing water. As organic debris is increased, the incidence of nonnative species invasion also increases (J. Klott, pers. comm., 2000), leading to the loss of suitable habitat for *Lepidium papilliferum.* Heavily grazed and trampled locations may favor species such as bur buttercup (Pyke 1999). Once the integrity of the slickspot has been disrupted, invasion by nonnative species will be enhanced (J. Klott, pers. comm., 2000). Invader species (such as those indicated above) can also encroach onto a site from adjacent sites in later stages of deterioration (in fair to poor range conditions) (Holechek *et al.* 1998).

As a result of numerous fires and reseeding efforts associated with fire rehabilitation with non-native perennial grasses, the BLM has granted Temporary Non-Renewable (TNR) livestock grazing permits to permittees in the Jarbidge Resource Area. A TNR is a permit that increases a livestock permittee's allotted Animal Unit Months (AUMs) in a permitted grazing area, based on the estimated amount of forage available for livestock. An increase in livestock grazing pressure increases the likelihood of trampling of *Lepidium papilliferum* plants, soil compaction, and the introduction of nonnative vegetation in slickspots. Until 1995, TNR permits were granted on a yearly basis without environmental review or surveys for sensitive plant species. In 1996, the BLM prepared an environmental assessment analyzing the potential impacts of authorizing TNR permits, and provided a framework for managing the TNR program (Martha Hahn, BLM, *in litt.*, 2000). Beginning in 1999, a TNR permit was denied if *L. papilliferum* was observed in the allotment for that year; if L. papilliferum was not observed, the TNR permit was granted (John Biar, BLM, pers. comm., 2000; J. Klott, pers. comm., 2000). However, since 2000, while some BLM pastures may be closed to grazing use if *L. papilliferum* is present, this does not necessarily always occur (J. Klott, pers. comm., 2000), and the decision to allow grazing is based mainly on how close slickspots containing *L. papilliferum* are to water sources.

The BLM has taken some steps to mitigate grazing impacts to *Lepidium papilliferum* on land it manages. It has moved a few water troughs that attracted livestock into an area that contained *L. papilliferum,* and also fenced an area containing the species to protect it from the livestock. Also, the BLM has changed the season of grazing use from spring to fall, although this does not generally protect the biennial form of *L. papilliferum.* Large areas that have not been surveyed are still grazed, and many areas at less than 1,524 m (5,000 ft) in elevation are permitted to be grazed the entire year. Although surveys are conducted yearly, funds are insufficient for the BLM to cover all of the grazing allotments throughout the species' range (J. Klott, pers. comm., 2002).

In 1998, the Air Force acquired BLM land to establish the Juniper Butte Enhanced Training Range (ETR), under the Juniper Butte Range Withdrawal Act (Pub. L. 105–261), which provided for the withdrawal and management of this area by the Air Force for military activities (Air Force 2000). Juniper Butte ETR is approximately 4,856 ha (12,000 ac) in size, and the landscape is a mosaic of shrub-steppe and nonnative plant communities. Numerous fires in this area resulted in a conversion from the native sagebrush-perennial grassland vegetation to nonnative perennial or annual grasslands (Air Force 2000). Slickspot habitat and *Lepidium papilliferum* are distributed throughout the entire Juniper Butte ETR area. A total of 597 slickspots or complexes of varying sizes were located in a 1998 Air Force survey on the Juniper Butte ETR, and totaled approximately 0.9 ha (2.2 ac) of potential *L. papilliferum* habitat. This figure did not include the 121 ha (300 ac) primary ordnance (bomb) impact zone. Slickspot habitat on the Juniper Butte ETR is currently considered low ranking (C-rank) (Mancuso 2002).

Under BLM management, this land was permitted to be grazed by livestock for many years as part of the Juniper Draw allotment (Air Force 2000). At the present time, the Juniper Butte ETR area continues to be grazed by a BLM permittee (Angelia Martin, Air Force, pers. comm., 2002). The Air Force has recently completed its Integrated Natural Resource Management Plan (INRMP) for the Juniper Butte ETR, which was prepared to provide mitigation and monitoring for lands affected by military activities, and to provide management guidance for this area (Air Force 2000).

Under the INRMP, the Air Force proposes to utilize grazing throughout the entire Juniper Butte ETR to reduce the amount of standing grass biomass for wildfire control (Air Force 2000). Currently, the permittee is required to graze his permitted 1,806 AUMs for 60 days (2 months) sometime between April 1 and June 30 (during a 90-day window) each year. In the early spring, Air Force staff begin to check a number of slickspots, and if there is standing water in them, grazing may be delayed until after April 1 with the potential of having grazing delayed until May 1. However, at that time, whether the slickspots are wet or not, the cattle must be turned out to graze the 60 days until the end of June. Outside of the primary ordnance impact area, the Juniper Butte ETR is divided into three pastures. During the spring, the Air Force (2000) proposes to suspend training in the primary ordnance impact area in order to clean up inert training ordnance dropped from jets during training exercises in this impact zone and one of the pastures. It is anticipated that a small amount of ordnance will be dropped outside the primary ordnance impact area, but we consider this impact on *Lepidium papilliferum* to be minor. Livestock will be allowed to graze during this time. Soil and vegetation disturbance due to this activity would be greatest at this time of year, and

would likely damage *L. papilliferum* and its habitat throughout the Juniper Butte ETR, especially at the INRMP proposed grazing intensity level, which is to graze 2,470 AUMs for 60 days (Air Force 2000). The Air Force is currently preparing a Vegetation Management Environmental Assessment (EA) that would address how the area is grazed by livestock and the necessary conservation measures needed for *L. papilliferum.* It is anticipated that the INRMP will be updated with information from the final EA.

Wildfire is a threat to all known *Lepidium papilliferum* occurrences throughout its range. Frequent fires are likely to degrade remaining *L. papilliferum* habitat in the future. For example, 29 of the 40 monitored (73 percent) *L. papilliferum* occurrences have been completely burned, have a mosaic burn pattern, or have distinct burned and unburned segments (Mancuso 2000). Increased sedimentation after a fire may also allow weedy species to invade slickspots (DeBoldt 1999 cited in Air Force 2000).

Post-fire range restoration efforts also threaten *Lepidium papilliferum.* Some occupied slickspots have been lost following drill-seedings, but it is often not clear whether fire, seeding, or the combination of the two disturbances caused the disappearance of the species or the slickspot. Drill seeding is the process of seeding an area using a rangeland drill which plants and covers seed simultaneously in furrows. It is designed to give the seeds moisture and temperature advantages that will enhance their competitive fitness, and consequently, their success rate (Scholten and Bunting 2001). Slickspots may reform over time after being drilled (Moseley 1994; Noe 1999 cited in Air Force 2000), but it is not known if *L. papilliferum* populations will remain viable for as long as the slickspot takes to reform (Air Force 2000). In their study examining the effects of drill seeding on *L. papilliferum,* Scholten and Bunting (2001) found that the density of *L. papilliferum* individuals was lower on drilled slickspots than on non-drilled sites.

Fire rehabilitation is needed to reduce the invasion of nonnative vegetation to burned areas. Drill-seeding may have less severe impacts on slickspot habitat than disking the soil, but the success of fire rehabilitation efforts at maintaining slickspots and *Lepidium papilliferum* varies considerably. Drill-seeding tends to break the linkages between slickspots and can result in slickspots shrinking in size, particularly those that are relatively small (J. Klott, pers. comm., 2000). Seeding methods that cause minimal soil disturbance (e.g., ''no till'' drills) are available, but have not been regularly used in southwestern Idaho to date (R. Rosentreter, BLM, pers. comm., 1999). In some cases, not seeding burned areas can result in the loss of *L. papilliferum* occurrences due to nonnative weed invasion. In 2001, the BLM modified its rangeland drills used in fire rehabilitation to reduce the seeding depths so the drills would be less damaging to *L. papilliferum* habitat.

Seeding burned areas with *Agropyron cristatum,* a non-native forage species, or other non-native perennial grasses, has resulted in the destruction of at least one *Lepidium papilliferum* site (Moseley 1994). *Agropyron cristatum* is a strong competitor and its seedlings are better than native species at acquiring moisture at low temperatures (Lesica and DeLuca 1998). For example, on the Juniper Butte ETR, approximately 80 percent or 3,708 ha (9,163 ac) of this area is dominated by nonnative perennial plant communities as a result of fire rehabilitation efforts (Air Force 1998).

Other potential threats to this species resulting from fire prevention and rehabilitation measures include the use of Oust, a non-specific herbicide that is toxic to plants in the mustard family. Oust is a sulfometuron methyl herbicide and is successful at killing annual plants while having little impact on established perennials (Scholten 2000 cited in Scholten and Bunting 2001). It has been used over large areas of BLM lands that contain *Lepidium papilliferum* habitat. Also, the practice of ''green-stripping'' or converting native habitat to nonnative plant species that are not considered to be very flammable has occurred (Moseley 1994). Since wildfire prevention and control is a high priority for the BLM and other agencies in southwestern Idaho, potential threats to *L. papilliferum* habitat associated with these activities are expected to continue.

The long-term viability of *Lepidium papilliferum* occurrences on private land is questionable due to the continuing expansion of residential developments in and around Boise (Moseley 1994). Twenty-eight of the 88 known *L. papilliferum* occurrences (32 percent) occur either wholly or partially on private lands. Of these, 13 occurrences (46 percent) are known to have been extirpated within the past 50 years (Moseley 1994; ICDC 2002). Urbanization, agricultural conversion, and associated factors such as increased risk of damage or extirpation from fire, trampling, and off-road vehicle use, threaten all existing *L. papilliferum* occurrences on private land.

Development of adjacent private land also threatens at least four *Lepidium papilliferum* occurrences on BLM land (Mancuso 2000). For example, the Soles Rest Creek *L. papilliferum* occurrence is on BLM land adjacent to private property that is under construction for a residential development (A. DeBoldt, pers. comm., 2002). An all-season road has replaced a two-track road and spur roads now lead off the improved road. Due to this increased access, and the resulting potential for an increase in off-road vehicle use that would trample plants, fire hazard, and introduction of nonnative species, this *L. papilliferum* occurrence declined from an A-rank to a B-rank.

In this same general area, a recent trespass occurred in which a private landowner bladed a 2.4 kilometer (km) (1.5 mile (mi)) road through BLM land to reach his private inholding. This individual bladed the road through slickspot habitat and a *Lepidium papilliferum* population. The BLM is now in the process of developing an environmental assessment to rehabilitate the land damaged during this incident and route a road away from slickspot habitat and *L. papilliferum* plants to accommodate this landowner as well as others (A. DeBoldt, pers. comm., 2002).

In another recent event, unauthorized blading of an existing roadway on BLM lands impacted at least six slickspots known to contain *Lepidium papilliferum.* The total number of slickspots impacted by the 84 km (52 mi) of blading is unknown as the blading may have removed all physical evidence of small slickspots (BLM 2001).

A recent assessment of the ecological status of *Lepidium papilliferum* indicates that the six remaining high-quality (A-ranked) *L. papilliferum* occurrences are threatened by fire, off-road vehicle use, habitat degradation and trampling resulting from livestock, powerline/pipeline maintenance activities, and illegal dumping (M. Mancuso, *in litt.,* 1998; Mancuso 2000). These six occurrences are located on mixed land ownerships consisting of BLM, State, and private land.

Military training activities and the development of the 4,856 ha (12,000 ac) Juniper Butte ETR in southwestern Idaho by the Air Force is also a threat to the species, and it is expected that direct impacts due to construction and training activities will result in the loss of *Lepidium papilliferum* within the 121 ha (300 ac) primary ordnance impact zone (Air Force 1998, 2000). The Juniper Butte ETR contains occupied and potentially suitable habitat for *L.*

papilliferum (A. DeBolt, *in litt.*, 1998; Air Force 1998; 1999; ICDC 1999); surveys conducted in June 1998 indicate that at least 1,000 plants were present (Air Force 1999). The Air Force constructed facilities within the 121 ha (300 ac) primary ordnance impact zone during 2000 and 2001, and to avoid impacts to some slickspots, the Air Force shifted the locations of several industrial complex buildings just prior to construction. Although fire protection has been made a priority, it is inevitable that fire will occur due to proposed training activities throughout the Juniper Butte ETR. The overall habitat quality in the Juniper Butte ETR ranges from moderate to low since portions of the area burned several years ago (A. DeBolt, pers. comm., 1999) and have been reseeded to nonnative perennial grasses.

An additional potential threat to *Lepidium papilliferum* on the Juniper Butte ETR within the primary ordnance impact area is the impact of dropping bombs on slickspots. Each bomb weighs approximately 11 kilograms (25 pounds) (Air Force 2000), and even though they are inert and will not explode, dropping them from planes onto slickspots could compact the soil and crush plants. Because the slickspots are relatively small, it would be difficult to avoid them on the bombing range. However, this threat is considered minimal as the Air Force intends to use only 121 ha (300 ac) or 2.5 percent of the entire Juniper Butte ETR as the actual bombing impact area (Air Force 2001), and because this area contains only 3 percent of the total occupied L. *papilliferum* habitat.

Lepidium papilliferum occurs on BLM lands called the Orchard Training Area, where the IDARNG has been conducting its military training exercises since 1953 under a Memorandum of Understanding between the two agencies (Quinney 2000). Over the past 12 years, IDARNG has implemented actions to meet the conservation needs of *L. papilliferum*, while still providing for military training activities. These actions include intensive fire suppression efforts, and restricting ground operated military training to where the plants and its habitat are not found.

Gravel or cinder mining threatens at least two occurrences of *Lepidium papilliferum* on State and Federal lands (M. Mancuso, *in litt.*, 1998; A. DeBolt, pers. comm., 1999). These occurrences, located at Tenmile Creek and Fraser Reservoir, currently support high-quality (A-ranked) habitat for this species (M. Mancuso, *in litt.*, 1998). Ongoing mining activity and off-road vehicle use are present at the Fraser Reservoir site, which is on both BLM and State land. The Tenmile Creek site has been affected by recent, apparently illegal mining activity (A. DeBolt, pers. comm., 1999); this site is on BLM and private land. Gravel deposits located near Boise are considered to be especially valuable for mining since the gravel does not have to be shipped long distances to market (A. DeBoldt, pers. comm., 2002).

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

The plant is not a source for human food, nor is it currently of commercial horticulture interest. Therefore, overutilization is not considered to be a threat to this species at the present time.

C. Disease or Predation

The effects of overgrazing by livestock (generally defined as greater than 45 percent use of the available forage) in shrub-steppe habitats has been well documented (Yensen 1980; Whisenant 1990; Noss *et al.* 1995; Holechek *et al.* 1998; Belnap *et al.* 1999; Holechek et al. 1999). Although grazing of *Lepidium papilliferum* by cattle appears low, and infrequent by other herbivores (Popovich 2001), spring-grazing sheep have been observed to uproot *L. papilliferum* plants. Since *L. papilliferum* is apparently unpalatable, sheep rarely consume the plants but simply pull them from the ground while foraging, killing the plants (D. Quinney and J. Weaver, pers. comm., 1998). Recent studies from 1994 to 1999 reported that as much as 50 percent or more of the *L. papilliferum* plants at various monitoring sites on the Snake River Plain were damaged or destroyed by cattle and sheep grazing and trampling (Moseley 1994; J. Weaver, *in litt.*, 1998; Mancuso 2000). For additional discussion on livestock grazing threats to this species, see Factors A and E.

Herbivory by beetles has been observed on *Lepidium papilliferum* plants (M. Mancuso, *in litt.*, 1998). Although some plants were nearly defoliated and may have been killed by beetle herbivory, it is not considered to be a major threat at this time. However, the effects of threats such as insect herbivory on *L. papilliferum* may become more detrimental as population sizes are reduced.

D. The Inadequacy of Existing Regulatory Mechanisms

Lepidium papilliferum is considered a sensitive species by the BLM (J. Klott, pers. comm., 2002; ICDC 2002). The BLM has regulations that address the need to protect sensitive, candidate, and Federally listed species, and monitoring *L. papilliferum* on Federal lands has been initiated. Monitoring helps to identify threats and management actions that may be necessary to control habitat degradation, but the effects of activities such as livestock use of the habitat have not been evaluated for most *L. papilliferum* occurrences managed by the BLM. Numerous occurrences on Federal lands are threatened by nonnative weeds, herbicide spraying, mining, off-road vehicle use, and habitat degradation through increased fire frequency (see Factors A and E for additional information).

Land exchanges involving the transfer of BLM land supporting *Lepidium papilliferum* into private ownership are a potential threat to this species. For example, a land exchange is currently proposed whereby the BLM would sell 12 ha (30 ac) of a 16 ha (40 ac) parcel to a private developer in the foothills of Boise, ID, as part of a larger land exchange. BLM would retain the 4 ha (10 ac) that contains a population of *L. papilliferum.* The 12 ha (30 ac) would be sold with a conservation easement and the developer would be required to fence the perimeter of the 4 ha (10 ac) retained in BLM ownership. With the 4 ha (10 ac) site surrounded by residential development, *L. papilliferum* habitat becomes fragmented and the population isolated from other *L. papilliferum* populations (A. DeBoldt, pers. comm., 2002). Future land exchanges are a continuing threat since BLM lands occupied by *L. papilliferum* could potentially support activities such as farming and mining, and may be sold for development purposes.

A conservation agreement with the City of Boise was completed in 1996 for the Hulls Gulch Reserve in the foothills north of Boise, which includes minimal habitat for *Lepidium papilliferum* (Service, *in litt.*, 1996). The *L. papilliferum* habitat within the Hulls Gulch Reserve, restricted to less than 2 m^2 (21.5 ft^2), is very low quality (D-rank), vulnerable to disturbances from an adjacent trail, and a housing development (Mancuso 2000), and represents only one occurrence of *L. papilliferum.*

Lepidium papilliferum is considered to be rare and imperiled at the global and State scale (G2/S2 rating) by the Idaho Natural Heritage Program (Idaho Native Plant Society 1999; Air Force 2000). However, Idaho has no endangered species legislation that protects threatened or endangered species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Because the majority of populations of Lepidium papilliferum are extremely small (fewer than 5 plants per slickspot), and existing habitat is fragmented by agricultural conversion, fire, grazing, roads, and urbanization, local extirpation is a threat to this species. Habitat fragmentation has also likely resulted in reduced gene flow between populations (M. Mancuso, *in litt.* 1998), thus inhibiting dispersal and recolonization of potentially suitable habitat areas. The small size of many populations presents a threat to their survival due to environmental and genetic factors (Moseley 1994). In addition, less than 2,246 ha (5,550 ac) of high-quality (with A-ranked occurrences) potential habitat, with slickspots scattered throughout, exists for this species (M. Mancuso, *in litt.,* 1998; ICDC 2002), which may not be adequate to ensure the long-term persistence of *L. papilliferum.* In 1999, new threats, including off-road vehicle use, cinder and gravel mining claims, and residential development, were observed at 7 (14 percent) of the 40 occurrences monitored, indicating a continuation of the threats associated with this species (Mancuso 2000).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining the status of *Lepidium papilliferum.* The small amount of occupied habitat, combined with ongoing threats make this species vulnerable to extinction. Most of the remaining sites that support *L. papilliferum* are small and fragmented, and existing occurrences are vulnerable to impacts from factors including grazing, trampling, herbicide use, military training, competition from nonnative vegetation, urban and agricultural development, and habitat degradation from frequent fires. Seventy-four percent of *L. papilliferum* occurrences are either completely or partially on Federal land managed primarily by the BLM and Air Force, and may be afforded some level of protection. Approximately 32 percent of *L. papilliferum* occurrences occur either partially or wholly on private lands. Of the 70 extant occurrences, only 6 (9 percent) are considered to be viable (A-ranked).

Existing regulatory mechanisms are inadequate or ineffective in protecting this taxon. One conservation agreement has been developed and implemented for *Lepidium papilliferum;* however, it covers only one occurrence of the species representing less than 1.5 percent of the extant occurrences. Based on our evaluation, *L. papilliferum* meets the definition of endangered under the Act, which is a species in danger of becoming extinct throughout all or a significant portion of its range.

Critical Habitat

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

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our implementing regulations (50 CFR 424.12(a)) state that critical habitat is not determinable if information sufficient to perform the required analysis of impacts of the designation is lacking, or if the biological needs of the species are not sufficiently well known to allow identification of an area as critical habitat. Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the designating a particular area as critical. The Secretary may exclude any area from critical habitat if she determines that the benefits of such exclusion outweigh the conservation benefits, unless to do so would result in the extinction of the species. In the absence of a finding that critical habitat would increase threats to a species, if any benefits would derive from critical habitat designation, then a prudent finding is warranted. In the case of this species, designation of critical habitat may provide some benefits.

The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. Designating critical habitat may also produce some educational or informational benefits. Therefore, designation of critical habitat for *Lepidium papilliferum* is prudent.

However, our budget for listing activities is currently insufficient to allow us to immediately complete all the listing actions required by the Act. Listing *Lepidium papilliferum* without designation of critical habitat will allow us to concentrate our limited resources on higher priority listing actions, while allowing us to put in place protections needed for the conservation of this species without further delay. This is consistent with section 4(b)(6)(C)(i) of the Act, which states that final listing decisions may be issued without critical habitat designations when it is essential that such determinations be promptly published. The legislative history of the 1982 Act amendments also emphasized this point: ''The Committee feels strongly, however, that, where biology relating to the status of the species is clear, it should not be denied the protection of the Act because of the inability of the Secretary to complete the work necessary to designate critical habitat. * * * The committee expects the agencies to make the strongest attempt possible to determine critical habitat within the time period designated for listing, but stresses that the listing of species is not to be delayed in any instance past the time period allocated for such listing if the biological data is clear but the habitat designation process is not complete'' (H.R. Rep. No. 97–567 at 20 (1982)). We will prepare a critical habitat designation in the future when our available resources and priorities allow.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages public awareness and results in

conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species, or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species, or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible federal agency must enter into consultation with us.

Federal agencies that may have involvement with *Lepidium papilliferum* include the Federal Housing Administration and Farm Services Agency, which may be affected through potential funding of housing and farm loans where this species or its habitat occurs. Highway construction and maintenance projects that receive funding from the U.S. Department of Transportation for Federal highways will also be subject to review under section 7 of the Act. In addition, activities or actions that may affect populations of *L. papilliferum* that occur on Federal lands (*e.g.*, managed by the BLM or Department of Defense) will be subject to section 7 review. Activities on private, State, county or city lands requiring a permit or funding from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, or some other Federal action, including funding (*e.g.,* from the Federal Highway Administration or Federal Emergency Management Agency), will also be subject to the section 7 consultation process. Federal actions not affecting the species, as well as actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered or threatened plants. With respect to *Lepidium papilliferum,* all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply (16 U.S.C. 1538(a)(2)). These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport or ship in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce to possession from areas under Federal jurisdiction, any plant listed as an endangered or threatened species. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to our agents and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant taxa under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species.

Our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), is to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effects of this listing on proposed and ongoing activities within the species' range. Collection, damage or destruction of this species on Federal land is prohibited, although in appropriate cases a Federal permit could be issued to allow collection for scientific or recovery purposes.

Activities that we believe could potentially result in a violation of section 9 include, but are not limited to:

(1) Grazing levels within *L. papilliferum* habitat that promote the invasion of nonnative species;

(2) Placement of water, salt, and fences for livestock and its associated use within *L. papilliferum* habitat;

(3) Grazing during wet periods that results in the disturbance of slickspot hydrology;

(4) Fire rehabilitation that does not reseed to native shrub-steppe habitat and maintain slickspot integrity;

(5) Failure to control wildfires in shrub-steppe habitats;

(6) Residential or commercial development within shrub-steppe habitat with slickspots;

(7) Uncontrolled off-road vehicle use and other recreational activities in *L. papilliferum* habitats;

(8) Federal land exchanges that may result in the loss or degradation of *L. papilliferum* habitat; and

(9) Application of pesticides/herbicides in violation of label restrictions.

We believe that activities that are unlikely to violate section 9 include any agricultural or residential uses on non-Federal land. We are not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the Field Supervisor of the Snake River Basin Office (*see* **FOR FURTHER INFORMATION CONTACT**). Requests for copies of the regulations on listed plants and animals, and general inquiries regarding prohibitions and permits, may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Ave., Portland, OR 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we are soliciting comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) Additional information concerning the range, locations, and population size of this species;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on this species; and

(4) The reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act, including whether the benefit of designation will outweigh any benefits of exclusion;

If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AI50'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Snake River Fish and Wildlife Office at telephone number 208/378–5243.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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 inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Snake River Basin Office (*see* **ADDRESSES**).

In making any final decision on this proposal, we will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from this proposal.

Public Hearings

In anticipation of public interest in this issue, a public hearing has been scheduled for Thursday, August 29, 2002, from 1 p.m. until 3 p.m. and from 6 p.m. until 8 p.m. at the AmeriTel Inn/Boise Spectrum, 7499 W. Overland Rd, Boise, ID. Anyone wishing to make oral comments for the record at the public hearing is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than 1 week before the hearing date.

Peer Review

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

National Environmental Policy Act

We have determined that an environmental assessment and/or an environmental impact statement, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Executive Order 12866

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following—(1) Are the requirements in the document clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the 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) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Send a copy of any written comments about how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail comments to: *Exsec@ios.doi.gov.*

Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose record keeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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 existing OMB control number is 1018–0094 for permit applications regarding endangered and threatened species; this control number expires 7/31/2004.

Executive Order 13211

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

References Cited

A complete list of all references cited in this document, is available upon request from the Snake River Basin Office (*see* **ADDRESSES** section).

Author(s)

The primary authors of this proposed rule are Jeri Wood, U.S. Fish and Wildlife Service, Snake River Basin Office (*see* **ADDRESSES**), and Barbara Behan, U.S. Fish and Wildlife Service, Regional Office, Portland, OR.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. Section 17.12(h) is amended by adding the following, in alphabetical

order under FLOWERING PLANTS to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	*
Lepidium papilliferum	Slickspot peppergrass.	U.S.A. (ID)	Brassicaceae ..... (Mustard)	E		NA	NA
*	*	*	*	*	*	*	*

Dated: July 5, 2002.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 02–17715 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH10

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Lanai, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, and public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the proposed critical habitat designations for 32 plants from the island of Lanai, Hawaii. In addition, the comment period which originally closed on May 3, 2002, will be reopened. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on August 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 6 p.m. to 8 p.m. on Thursday, August 1, 2002, on the island of Lanai, Hawaii. Prior to the public hearing, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. We will also be available for questions after the hearing.

ADDRESSES: The public hearing will be held at the Lanai Public Library Meeting Room, Fraser Avenue, Lanai City, Hawaii. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3–122, P.O. Box 50088, Honolulu, HI 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address (telephone 808/541–3441; facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

On March 4, 2002, we published a revised proposed critical habitat rule for 32 of the 37 plant species listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), known historically from the island of Lanai (67 FR 9806). The original comment period closed on May 3, 2002. The comment period now closes on August 30, 2002. Written comments should be submitted to us (see **ADDRESSES** section).

A total of 37 species historically found on Lanai were listed as endangered or threatened species under the Act between 1991 and 1999. Some of these species may also occur on other Hawaiian islands. Previously, we proposed that designation of critical habitat was prudent for 32 (*Abutilon eremitopetalum, Adenophorus periens, Bidens micrantha* ssp. *kalealaha, Bonamia menziesii, Brighamia rockii, Cenchrus agrimonioides, Centaurium sebaeoides, Clermontia oblongifolia* ssp. *mauiensis, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyanea lobata, Cyanea macrostegia* ssp. *gibsonii, Cyperus trachysanthos, Cyrtandra munroi, Diellia erecta, Diplazium molokaiense, Gahnia lanaiensis, Hedyotis mannii, Hesperomannia arborescens, Hibiscus brackenridgei, Isodendrion pyrifolium, Mariscus fauriei, Neraudia sericea, Portulaca sclerocarpa, Sesbania tomentosa, Silene lanceolata, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium remyi, Vigna o-wahuensis, Viola lanaiensis,* and *Zanthoxylum hawaiiense*) of the 37 species reported from the island of Lanai. No change is made to the 32 proposed prudency determinations in the March 4, 2002, revised proposed critical habitat rule for plants from Lanai. We previously proposed that designation of critical habitat was not prudent for *Phyllostegia glabra* var. *lanaiensis* because it had not been seen recently in the wild, and no viable genetic material of this species is known to exist (65 FR 82086). No change is made to this proposed prudency determination in the March 4, 2002, revised proposed critical habitat rule (67 FR 9806). In the March 4, 2002, revised proposed critical habitat rule, we proposed that designation of critical habitat is prudent for *Tetramolopium lepidotum* ssp. *lepidotum,* a species for which a prudency determination has not been made previously. We determined that designation of critical habitat was prudent for *Hedyotis schlechtendahliana* var. *remyi, Labordia tinifolia* var. *lanaiensis,* and *Melicope munroi* at the time of their listing in 1999.

We also propose designation of critical habitat for 32 (*Abutilon eremitopetalum, Adenophorus periens, Bidens micrantha* ssp. *kalealaha, Bonamia menziesii, Brighamia rockii, Cenchrus agrimonioides, Centaurium sebaeoides, Clermontia oblongifolia* ssp. *mauiensis, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyanea lobata, Cyanea macrostegia* ssp. *gibsonii, Cyperus trachysanthos, Cyrtandra munroi, Diellia erecta,*

Diplazium molokaiense, Gahnia lanaiensis, Hedyotis mannii, Hedyotis schlechtendahliana var. *remyi, Hesperomannia arborescens, Hibiscus brackenridgei, Isodendrion pyrifolium, Labordia tinifolia* var. *lanaiensis, Melicope munroi, Neraudia sericea, Portulaca sclerocarpa, Sesbania tomentosa, Solanum incompletum, Spermolepis hawaiiensis, Tetramolopium remyi, Vigna o-wahuensis,* and *Viola lanaiensis*) plant species. Critical habitat is not proposed for four (*Mariscus fauriei, Silene lanceolata, Tetramolopium lepidotum* ssp. *lepidotum,* and *Zanthoxylum hawaiiense*) of the 37 species which no longer occur on the island of Lanai, and for which we are unable to identify any habitat that is essential to their conservation on the island of Lanai. Critical habitat is not proposed for *Phyllostegia glabra* var. *lanaiensis* for the reasons given above. Eight critical habitat units, totaling approximately 7,853 hectares (19,405 acres), are proposed for designation on the island of Lanai. For locations of these proposed units, please consult the proposed rule (67 FR 9806).

Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the State of Hawaii, we will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to us. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than 1 week before the hearing date.

Information regarding this proposal is available in alternative formats upon request.

Comments from the public regarding this proposed rule are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent as provided by section 4 of the Act and 50 CFR 424.12(a)(1);

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species, as critical habitat is defined by section 3 of the Act;

(3) Specific information on the amount, distribution, and quality of habitat for the 32 species, and what habitat is essential to the conservation of the species and why;

(4) Land use practices and current or planned activities in the subject areas, and their possible impacts on proposed critical habitat;

(5) Any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low income households, and local governments;

(6) Economic and other potential values associated with designating critical habitat for the above plant species such as those derived from non-consumptive uses (*e.g.*, hiking, camping, birding, enhanced watershed protection, increased soil retention, ''existence values'', and reductions in administrative costs); and

(7) Information for use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat.

Reopening of the comment period will enable us to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on August 30, 2002. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Christa Russell (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: July 8, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–17745 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 67, No. 135
Monday, July 15, 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

Forest Service

Rental Fee Waivers for Noncommercial, Educational Broadcasters and State and Local Entities Holding Leases or Permits for Communications Uses on National Forest System Lands

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency interim directive.

SUMMARY: The Forest Service is issuing an interim directive (ID) to provide internal guidance to its employees in implementing a rental fee waiver for noncommercial, educational sectarian broadcasters that hold a Forest Service lease or special use permit to occupy National Forest System lands for telecommunications purposes. Based on an analysis of applicable case law, the Forest Service is modifying its fee waiver policy to exempt from a rental fee those sectarian broadcasters that have a Forest Service lease or special use permit, are licensed by the Federal Communications Commission (FCC) as a noncommercial, educational broadcaster, and have nonprofit status under section 501(c)(3) of the Internal Revenue Code. Additionally, the ID clarifies that the Forest Service rental fee calculation for facility owners and facility managers does not include sectarian broadcasters in their facilities that can verify their nonprofit status under section 501(c)(3) of the Internal Revenue Code and their classification by the FCC as noncommercial, educational sectarian broadcasters. The Forest Service is also clarifying its current fee waiver policy to provide that States and local governmental entities are not to be granted a fee waiver when their authorized use on the National Forest is commercial in nature or is intended to generate a profit. The interim directive is issued to the Forest Service Special Uses Handbook, FSH 2709.11, Chapter 30, Fee Determination, as ID number 2709.11–2002–2.

DATES: The interim directive is effective July 15, 2002.

ADDRESSES: The interim directive is available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the interim directive also are available by contacting Mark Scheibel, Forest Service, USDA, Lands Staff (Mail Stop 1124), 1400 Independence Avenue, SW., Washington, DC 20250–1124 (telephone 202–205–1264).

FOR FURTHER INFORMATION CONTACT: Mark Scheibel, Lands Staff (202–205–1264).

Dated: June 19, 2002.

Dale N. Bosworth,

Chief.

[FR Doc. 02–17607 Filed 7–12–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Request for Proposals: Fiscal Year 2002 Funding Opportunity for 1890 Land Grant Institutions Rural Entrepreneurial Program Outreach Initiative

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of approximately $1.5 million in competitive cooperative agreement funds allocated from fiscal year 2002 budget. RBS hereby requests proposals from Tuskegee University and the 1890 Land Grant Universities (1890 Institutions) interested in applying for competitively awarded cooperative agreements for support of RBS' mission goals and objectives of outreach to small rural communities and to develop programs that will develop future entrepreneurs and businesses in rural America in those communities that have the most economic need. These programs must provide sustainable development that is in keeping with the needs of the community and designed to help overcome current identified economic problems. Proposals in both traditional and nontraditional business enterprises are encouraged. The initiative seeks to create a working partnership between the 1890 Institutions and RBS through cooperative agreements.

Eligible applicants must provide matching funds in support of this project. Matching funds must equal at least 25 percent of the amount provided by RBS in the cooperative agreement. This Notice lists the information needed to submit an application for these funds.

DATES: Cooperative agreement applications must be received by 4 p.m. August 29, 2002. Proposals received after August 29, 2002, will not be considered for funding. Comments regarding the information collection requirements under the Paperwork Reduction Act of 1995 must be received on or before September 13, 2002 to be considered.

ADDRESSES: Send proposals and other required materials to Mr. Edgar L. Lewis, Program Manager, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4221, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 690–3407, E-mail: *edgar.lewis@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Edgar L. Lewis, Program Manager, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4221, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 690–3407, E-mail: *edgar.lewis@usda.gov.*

SUPPLEMENTARY INFORMATION:

General Information

This solicitation is issued pursuant to section 607(b)(4) of the Rural Development Act of 1972, as amended by section 759A of the Federal Agriculture Improvement and Reform Act of 1996. Also, this solicitation is issued pursuant to Executive Order 13256 (February 12, 2002), ''President's Board of Advisors on Historically Black Colleges and Universities.'' RBS was established by the Department of Agriculture Reorganization Act of 1994. The mission of RBS is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance, and creating effective strategies for rural development.

The purpose of the 1890 Land Grant Institutions Rural Entrepreneurial Program Outreach Initiative is to develop programs that will develop future entrepreneurs and businesses in rural America in those communities that have the most economic need. These programs must provide sustainable development that is in keeping with the needs of the community and are designed to help overcome current identified economic problems. Proposals in both traditional and nontraditional business enterprises are encouraged. The initiative seeks to create a working partnership through cooperative agreements between 1890 Institutions and RBS, to develop programs to assist future entrepreneurs and businesses.

RBS plans to use cooperative agreements with the 1890 Institutions to strengthen the capacity of these communities to undertake innovative, comprehensive, citizen led, long-term strategies for community and economic development. The cooperative agreements will be for an outreach effort to promote RBS programs and shall include, but not limited to:

(1) Developing a program of business startup and technical assistance for assisting with new business development, business planning, franchise startup and consulting, business expansion studies, marketing analysis, cashflow management, and seminars and workshops for small businesses;

(2) Developing management and technical assistance plans that will:

(i) Assess small business alternatives to traditional agricultural and other natural resource based industries;

(ii) Assist in the development of business plans or loan packages, marketing, or bookkeeping;

(iii) Assist and train small businesses in customer relations, product development, or business planning and development.

(3) Assessing and conducting feasibility studies of local community weaknesses and strengths, feasible alternatives to agricultural production, and the necessary infrastructure to expand or develop new or existing businesses;

(4) Providing community leaders with advice and recommendations regarding best practices in community economic development stimulus programs for their communities;

(5) Conducting seminars to disseminate information to stimulate business and economic development in selected rural communities; and

(6) Establishing and maintaining a computer network system, linking community leaders and residents to available economic development information.

To obtain application instructions and all required forms, please contact Cooperative Services Program at (202) 690–3407 or FAX (202) 690–2723. The application forms and instructions may also be requested via e-mail by sending a message with your name, mailing address, and phone number to *edgar.lewis@usda.gov.* The application forms and instructions will be mailed to you (not e-mailed or faxed) as quickly as possible. When calling or e-mailing Cooperative Services, please indicate that you are requesting application forms and instructions for fiscal year (FY) 2002 1890 Land Grant Institutions Rural Entrepreneurial Program Outreach Initiative.

Use of Funds

Funds may be used to pay up to 75 percent of the costs for carrying out relevant projects. Applicants' contributions may be in cash or in-kind contributions and must be from non-Federal funds. Funds may not be used to: (1) Pay more than 75 percent of relevant project or administrative costs; (2) pay costs of preparing the application package; (3) fund political activities; (4) pay costs prior to the effective date of the cooperative agreement; (5) proposals may not provide for revolving funds; (6) construction; (7) any activities where there are or may appear to be a conflict of interest; (8) paying obligations before the date of the cooperative agreement; or (9) purchasing real estate.

Based on Section 708 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, (Pub. L. 107–76, Nov. 28, 2001) ''No funds appropriated by this Act may be used to pay indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total cost of the agreement when the purpose of such cooperative arrangement is to carry out programs of mutual interest between the two parties.''

Available Funds and Award Limitations

The total amount of funds available in FY 2002 for support of this program is approximately $1.5 million. Applicants should request a budget commensurate with the project proposed. Total funds to be awarded will be distributed to the 1890 Institutions competitively, for the purpose of conducting outreach and providing technical assistance to small rural communities. This outreach initiative includes, but is not limited to, technical assistance in economic and community development, feasibility studies, research, market development, loan packaging, conducting workshops and seminars in the area of business and economic development, and developing and providing access to computer web sites in the targeted population and communities. The actual number of cooperative agreements funded will depend on the quality of proposals received and the amount of funding requested. Maximum amount of Federal funds awarded for any one proposal will be $150,000. It is anticipated that a typical award would range from $75,000 to $150,000.

Eligible Applicants and Beneficiaries

Eligible applicants are 1890 Institutions. Eligible applicants must provide matching funds equal to at least 25 percent of the amount provided by RBS in the cooperative agreement. Matching funds must be spent in proportion to the spending of funds received from the cooperative agreement. Applicant, and the assigned personnel, must also have expertise and experience in providing the recommended assistance. Applicants should also have a previous record of successful implementation of similar projects and must have the expertise in the use of electronic network technologies and/or a business information system network web site.

Eligible beneficiaries must be located in a rural area as defined in 7 U.S.C. 1991 (a)(b) with economic need. Economic need can be demonstrated by the methods delineated in the evaluation section of this notice. Location in an Empowerment Zone, Enterprise Community, or Champion Community is sufficient evidence of economic need. Eligible beneficiaries must also be located in communities that show significant community support for the proposal. Preference will be given for projects that operate in a multi-county service area.

Methods for Evaluating and Ranking Applications

Applications will be collectively evaluated at the end of the application period and will be rated and ranked by a review panel based on the criteria and weights found in the next section. If there is a tie score after the proposals have been rated and ranked, the tie will be resolved by lottery. If such a lottery is required, the names of all tied applicants will be entered into a drawing. The first applicant drawn will receive the highest rank among the ties,

with the next draw receiving the next rank.

Evaluation Criteria and Weights

Proposals will be evaluated using the following seven criteria. Each criterion is given the weight value shown with total points equal to 100. Points do not have to be awarded by RBS for each criterion. After all proposals have been evaluated, the Administrator may award an additional 10 discretionary points to any proposal to obtain the broadest geographic dispersion of the funds, insure a broad diversity of project proposals, or insure a broad diversity in the size of the awards.

1. *Support of Local Community (Up to 10 points)*—Proposals should have the support of local government, educational, community, and business groups. Higher points will be awarded for proposals demonstrating broad support from all four components of the community. Broad support is demonstrated by tangible contribution, such as volunteering human capital, computers, transportation and/or co-sponsoring workshops and conferences. Points will be awarded based on the level of tangible contribution in comparison to the size of the award.

2. *Matching Funds/Leveraging (Up to 15 points)*—Points will be awarded based upon the amount the proposal exceeds the minimum 25 percent matching requirement. Applicants will be required to provide matching funds or equivalent in-kind in support of this project. Evidence of matching funds availability must be provided. Funds or equivalent in-kind must be available at the time the cooperative agreement is entered into. Points will be awarded as follows:

25% to 35% Match	5 points.
>35% to 50% Match	8 points.
>50% to 75% Match	12 points.
>75% Match	15 points.

3. *Economic Need of Community (Up to 20 points)*—Projects entirely in Empowerment Zones, Enterprise Communities, and Champion Communities will automatically receive the full 20 points. Otherwise, points will be awarded for demonstrated economic need based on the local community 10-year average poverty rate as compared to the respective State 10-year average poverty rate. Applicants may use county poverty rates for served communities. When multi-communities proposals are submitted, the over-all average for all counties will be used. Applicants must provide 10 years of poverty data for each targeted community in their respective State. Points will be awarded based on the amount the local community poverty rate exceeds the State average as following. Percents will be rounded to the next whole number.

Less than 10%	0 points.
10–15	5 points.
16–20	8 points.
21–25	12 points.
26–30	16 points.
Greater than 30	20 points.

4. *Previous Accomplishments (Up to 10 points)*—A point will be awarded to those 1890 Institutions for each year they have been awarded a cooperative agreement under this program up to 8 years. An additional 2 points shall be given to each institution that has received a cooperative agreement for the last 5 years (1997–2001). This criterion is meant to reward those institutions that have repeatedly participated in this program and shown their expertise and commitment to the program. Applicants must provide evidence of satisfactorily completing the agreement for each year that they claim for credit.

5. *Service Area (Up to 10 points)*—This criterion will be evaluated based upon the number of people directly assisted in the targeted communities. ''Directly assisted'' means those people that attend classes, workshops, or conferences sponsored by the applicant or received direct one-on-one technical assistance such as loan packaging activities. Points will be awarded based upon the ratio of the number of people served to the total Federal dollars received through the cooperative agreement (number of people served/Federal dollars). Higher points will be awarded to those proposals with the highest number of people served per Federal dollar ratio.

6. *Technology Outreach (Up to 15 points)*—This criterion is meant to evaluate the applicant's level of outreach and capacity to provide innovative and effective computer technology outreach to the underserved targeted rural communities. Points will be awarded based on the number of computer-related classes, the number of hits made in a business information system network, and the number of people assisted in a one-on one computer technology training.

A maximum of 10 points will be awarded based upon ratio of number of people reached via technology using the above items to the total Federal dollars received through the cooperative agreement (number of people reached/Federal dollars). Higher points will be awarded to those proposals with the highest number of people reached to Federal dollar ratio.

Up to 5 additional points may be awarded based on the qualification and subject skill level of the individuals directly conducting the technology outreach activities. Applicants must provide sufficient information for the evaluation panel to properly rate this technology criterion.

7. *Business Economic Development Activities (Up to 20 points)*—This criterion is meant to evaluate the applicant's ability to impact business economic development by (saving or creating jobs), starting new businesses, and promoting USDA-Rural Development programs in targeted rural communities. This shall be done by conducting business-related classes for entrepreneurs and providing one-on-one technical help (such as preparing feasibility studies and packaging loans), and providing the type of technical assistance that will result in new businesses. Promoting USDA-Rural Development programs can be demonstrated by conducting workshops or conferences in the targeted communities using the agency's published resources and, if possible personnel. Points will be awarded as follows:

1 point for every type of activity listed above up to 10 points

1 point for each outreach activity to promote RBS programs up to 5 points

Up to 5 additional points may be awarded for this criterion based on the qualification and subject skill level of the individual directly conducting the business economic development outreach activities. Applicants must provide sufficient information for the evaluation panel to properly rate this criterion.

Projected number of jobs saved or created, new business starts, and one on one assistance must be as realistic as possible. The Agency reserves the right to reduce applicant's scores if it is determined that the numbers projected, quality of the courses taught or the resource materials used for conducting workshops and conferences are below the standards needed to achieve the stated objectives.

Deliverables

During the term of the negotiated agreements, the recipients will deliver quarterly reports of progress of the work to RBS and prepare and deliver a final report detailing all work done and results accomplished. In addition, all reports forwarded to RBS must be forwarded to the Rural Development State Office. Also, upon request by RBS, the recipient will deliver manuscripts, videotapes, software, or other media, as may be identified in approved

proposals. RBS retains those rights delineated in 7 CFR 3019.36. Also, the recipients will deliver project outreach success stories and other project related information requested by RBS for use on the Web site *(http://BISNet.cmps.subr.edu).*

Award Amount

In the event that the applicant is to receive an award that is less than the amount requested, the applicant will be required to modify the application to conform to the reduced amount before execution of the cooperative agreement. RBS reserves the right to reduce or de-obligate any award if acceptable modifications are not submitted by the awardees within 10 working days from the date the application is returned to the applicant. Any modification must be within the scope of the original application.

Recipient Requirements

Institutions that are awarded a cooperative agreement will be responsible for the following:

(1) Completing the objectives as defined in the approved proposal.

(2) During the term of the agreement, keep up-to-date records on the project, and on or prior to October 7, January 6, April 7, and July 7, make quarterly reports of the progress of the work to RBS, and prepare a final report detailing all work done and results accomplished. All reports will be forwarded to RBS headquarters and to the Rural Development State Office.

(3) Submit to RBS, on a quarterly basis, Form SF–270, ''A Request for Advance or Reimbursement.''

(4) Keep an account of expenditures of the Federal dollars and matching fund dollars and provide to RBS, Form SF–269, ''A Financial Status Report,'' with each Form SF–270 submitted, and a final SF–269 within 90 days of the project's completion.

(5) Immediately refund to RBS, at the end of the agreement, any balance of unobligated funds received from RBS.

(6) Provide matching funds or equivalent in-kind in support of the project, at least to the level agreed to in the accepted proposal.

(7) Conduct seminars to disseminate Rural Development program information to stimulate business and economic development in selected rural communities.

(8) Participate in the RBS Entrepreneurship Conferences when planned.

(9)In cooperation with local businesses, develop a program of business startup and technical assistance that will assist with new company development, business planning, new enterprise, franchise startup and consulting, business expansion studies, marketing analysis, cashflow management, and seminars and workshops for small businesses.

(10) Provide office space, equipment, and supplies for all personnel assigned to the project.

(11) Develop management and technical assistance plans in cooperation with RBS State Office that will:

(a) Assess small business alternatives to traditional agricultural and other natural resources-based industries;

(b) Assist in the development of business plans and loan packages, marketing, bookkeeping assistance, and organizational sustainability; and

(c) In cooperation with RBS State Office, provide technical assistance and training in customer relations, product development, and business planning and development.

(12) Assess the need for and, if necessary, conduct a feasibility study of local community weaknesses and strengths, feasible alternatives to agriculture production, and the needed infrastructure to expand or develop new or existing businesses. The plans for any such studies must be submitted for approval prior to the study being conducted.

(13) In cooperation with the RBS State Office, provide community leaders with advice and recommendations regarding best practices in community economic development stimulus programs for their communities.

(14) Establish and maintain the BISNet web site, linking community leaders and residents to available economic development information.

(15) Assure and certify that it is in compliance with, and will comply in the course of the agreement with, all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those set out in 7 CFR part 3015, 3015.205(b) and 7 CFR part 3019.

(16) Federal funds can only be used to pay meeting related travel expenses, if the employees are performing a service of direct benefit to the Government directly in furtherance of the objectives of the proposed agreement. Therefore, Federal funds cannot be used to pay non-Federal employees to attend meetings.

(17) Not commingle or use program funds for administrative expenses to operate an Intermediary Relending Program (IRP).

(18) As a cooperative agreement and not a grant, the 1890 Institution will collaborate with the RBS State Office in performing the tasks in the agreement as needed and will provide RBS National Office with the necessary information for RBS to do the following:

(a) Monitor the program as it is being implemented and operated, including monitoring of financial information to ensure that there is no commingling or use of program funds for administrative expenses to operate an IRP or other unapproved items.

(b) Halt activity, after written notice, if tasks are not met.

(c) Review and approve changes to key personnel.

(d) Provide guidance in the evaluation process and other technical Assistance as needed.

(e) Approve the final plans for the community business workshops, business and economic development sessions, and training workshops to be conducted by the Institution.

(f) Provide reference assistance as needed to the Institution for technical assistance given on a one-on-one basis to entrepreneurs and startup businesses.

(g) Review and comment upon strategic plans developed by the Institution for targeted areas.

(h) Review economic assessments made by the Institution for targeted counties so that RBS can indicate which of its programs may be beneficial.

(i) Carefully screen the project to prevent First Amendment violations.

(j) Monitor the program to ensure that a BISNet link is established and maintained.

(k) Provide technical assistance and training to BISNet Hub-sites and Wide Area Network (WAN) Team Members at the universities in preparing economic development information for posting on the Internet.

(l) Allow the RBS State Office to conduct a semi-annual on-site review and submit written reports to the National Office.

Content of a Proposal

A proposal should contain an original and two copies of each of the following:

(1) Completed Forms.

(i) Form SF–424, ''Application for Federal Assistance.''

(ii) Form SF–424A, ''Budget Information—Non-Construction Programs.''

(iii) Form SF–424B, ''Assurances—Non-Construction Programs.''

(iv) Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

(v) Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

(2) *Table of Contents:* For ease of locating information, each proposal

must contain a detailed Table of Contents immediately following the required forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

(3) *Project Executive Summary:* A summary of the Project Proposal, not to exceed one page.

(4) *Project Proposal:* The application must contain a narrative statement describing the nature of the proposed outreach initiative. The proposal must include at least the following:

(i) Project Title Page. Should include the following: title of the project, names of principal investigators, and applicant organization.

(ii) Introduction. A concisely worded justification or rationale for the outreach initiative must be presented. Included should be a summarization of social and economical statistical data (income, population, employment rate, poverty rate, education attainment, etc.), of the target area which substantiates the need for the outreach initiative. Note in this section if the target area includes an Employment Zone/Champion Community.

(iii) Workplan. Discuss the approach (strategy) to be used in carrying out the proposed outreach initiative and accomplishing the objectives. A description of any subcontracting arrangements to be used in carrying out the project must be included. Also, the workplan must include:

(a) Overview of the project objectives and goals: Identify and discuss the specific goals and objectives of the project and the impact of the outreach initiative on end-users;

(b) Timeframe: Develop a tentative schedule for conducting the major steps of the outreach initiative;

(c) Milestones: Describe and quantify the expected outcome of the specific outreach objective, including jobs created or assisted, conferences and seminars conducted and number of participants, loans packaged, etc.;

(d) Recipient involvement: Identify the person(s)who will be performing the activities; and

(e) RBS involvement: Identify RBS staff responsible for assisting and monitoring the activities.

(iv) Estimated Budget. Detail budget justification including matching funds.

(v) Leveraging Funds. Other institutional support of this outreach initiative project.

(vi) Coordination and Management Plan. Describe how the project will be coordinated among various participants, nature of the collaborations and benefits to participants, the communities, the applicant, and RBS. Describe plans for management of the project to ensure its proper and efficient administration. Describe scope of RBS involvement in the project.

(vii) Technology Outreach. The proposal should address the applicant's ability to deliver computer technology to the targeted rural communities and implement and maintain a computer network system linking community leaders and residents to available economic development information.

(viii) Key Personnel Support. The proposal should include curriculum vitae for the principal investigator and other key personnel used to carry out the goals and objectives of the proposal.

(ix) Facilities or Equipment. Where the project will be located (housed) and what other equipment is needed or already available to carry out the specific objectives of the project.

(x) Previous Accomplishments. Summarize previous accomplishments of outreach work funded by RBS or similar outreach experiences.

(xi) Local Support. Letters of support from the local community such as businesses, local government, community-based organization, etc.

(xii) Any other information necessary for RBS to approve and rank your proposal.

Additionally you are encouraged to provide any strategic plan that has been developed to assist business development or entrepreneurship for the targeted communities.

What To Submit

All applicants for the cooperative agreement must submit a completed original, plus two copies of the proposal for this competitive program.

Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to proposals considered for review and to cooperative agreements awarded. These include, but are not limited to:

7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

7 CFR part 3015—Uniform Federal Assistance Regulations

7 CFR part 3017—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grant)

7 CFR part 3018—New Restrictions on Lobbying

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

7 CFR part 3052—Audits of States, Local Governments, and Non-Profit Organizations

Paperwork Reduction Act

The collection of information requirements contained in this notice have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0570–0041. However, in accordance with the Paperwork Reduction Act of 1995, RBS will seek standard OMB approval of the reporting requirements contained in this Notice and hereby opens a 60-day public comment period.

Abstract

Approximately $1.5 million will be made available for cooperative agreements between RBS and the nation's 1890 Land Grant Institutions and Tuskegee University. The agreements are for the purpose of outreach, to small rural communities, to develop programs that will develop future entrepreneurs and businesses in rural America in those communities that have the most economic need. These programs must provide sustainable development that is in keeping with the needs of the community and are designed to help overcome current identified economic problems. Proposals in both traditional and non-traditional business enterprises are encouraged. The initiative seeks to create a working partnership between 1890 Institutions and Tuskegee University and RBS through cooperative agreements.

Public Burden in This Notice

Form SF–424, ''Application for Federal Assistance''

This application is used by applicants as a required face sheet for applications for Federal funding.

Form SF–424A, ''Budget Information—Non-Construction Programs''

This form must be completed by applicants to show the project's anticipated budget breakdown in terms of expense categories and division of Federal and non-Federal sources of funds.

Form SF–424B, ''Assurances—Non-Construction Programs''

This form must be completed by the applicant to provide the Federal Government certain assurances of the applicant's legal authority to apply for

Federal assistance and financial capability to pay the non-Federal share of project costs. The applicant also assures compliance with various legal and regulatory requirements as described in the form.

Form SF–270, ''Request for Advance or Reimbursement''

This form must be completed by the funded recipient certifying that, to the best of its knowledge and belief, the data submitted are correct and that outlays were made in accordance with the grant conditions or other agreement, and the payment is due and has not been previously requested.

Form SF–269, ''Financial Status Report''

This form must be completed by the funded recipient certifying that, to the best of its knowledge and belief, this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award document.

Project Proposal

The applicant must submit a project proposal containing the elements described in this notice and in the format prescribed. The application must contain a narrative statement describing the nature of the proposed outreach initiative.

Reporting Requirements

Funded recipients will be required to submit written project performance reports quarterly and a final report highlighting successes over the course of the project.

Recordkeeping Requirements

Regulations require that financial records, supporting documents, statistical records, and all other records pertinent to the award, will be retained for a period of at least 3 years after the agreement closing. The exception that records will be retained beyond 3 years is if audit findings have not been resolved.

Estimate of Burden: Public reporting burden for this collection is estimated to range from 15 minutes for some forms to 15 hours for the proposal per response.

Respondents: Only 1890 Land Grant Institutions of Higher Education and Tuskegee University.

Estimated Number of Respondents: 17.

Estimated Number of Responses Per Respondent: 3.

Estimated Number of Responses: 293.

Estimated Total Annual Burden on Respondents: 743 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS's estimate of the burden to collect the required information, including the validity of the strategy used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments on the paperwork burden may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: July 10, 2002.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 02–17714 Filed 7–12–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC 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: U.S. Census Bureau.

Title: Census Employment Inquiry.

Form Number(s): BC–170.

Agency Approval Number: 0607–0139.

Type of Request: Revision of a currently approved collection.

Burden: 4,150 hours.

Number of Respondents: 16,600.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Census Bureau requests continued OMB approval for the BC–170, Census Employment Inquiry. We are also requesting minor modifications to the collection. The BC–170 is used to collect information such as personal data and work experience from job applicants. Selecting officials review the information shown on the form to evaluate applicant's eligibility for employment and to determine the best qualified applicants to fill Census jobs.

The BC–170 is used throughout the census and intercensal periods for the Special Census, pretests, and dress rehearsals for short-term time limited appointments. Applicants completing the form for a census related position are applying for temporary jobs in office and field positions (clerks, enumerators, crew leaders, supervisors). In addition, as an option to the OF–612, Optional Application for Federal Employment, the BC–170 may be used when applying for temporary/permanent office and field positions (clerks, field representatives, supervisors) on a recurring survey in one of the Census Bureau's 12 Regional Offices (ROs) throughout the United States.

During the decennial census, the BC–170 is intended to expedite hiring and selection in situations requiring large numbers of temporary employees for assignments of a limited duration. The use of this form is limited to only situations which require the establishment of a temporary office and/or involve special, one-time or recurring survey operations at one of the ROs. The form has been demonstrated to meet our recruitment needs for temporary workers and requires significantly less burden than the Office of Personnel Management (OPM) Optional Forms that are available for use by the public when applying for Federal positions. In addition, during the next decade and before the 2010 decennial census, we expect to recruit approximately 176,000 applicants for census jobs (i.e., special censuses and decennial pretests and dress rehearsals).

A separate informational cover sheet will be attached to the BC–170 to provide applicants with a brief description of their prospective job duties with the Census Bureau; the cover sheet message will vary for decennial, special censuses, or recurring survey positions. The cover sheet and ''Education'' sections have been revised as necessary to reflect changes in administrative requirements.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Required to obtain a benefit.

Legal Authority: Title 13 U.S.C., sections 23a & c.

OMB Desk Officer: Susan Schechter, (202) 395–5103. 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 6608, 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 Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 9, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–17633 Filed 7–12–02; 8:45 am]

BILLING CODE 3510–07–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

July 9, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, carryforward, and the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59409, published on November 28, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 9, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 21, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on July 15, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	633,082 dozen.
336/636	782,481 dozen.
342/642	725,499 dozen.
369–S [2]	2,535,683 kilograms.
638/639	2,582,818 dozen.
641	1,411,983 dozen.
647/648	2,373,544 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–17631 Filed 7–12–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

July 9, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 16, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, the recrediting of unused carryforward, swing, special shift, and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63025, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 9, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive

concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on July 16, 2002, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit [1]
Levels in Group I	
200	1,287,716 kilograms.
219	14,774,634 square meters.
225	8,428,603 square meters.
300/301	6,322,603 kilograms.
313–O [2]	26,808,415 square meters.
314–O [3]	83,608,280 square meters.
315–O [4]	42,530,966 square meters.
317–O [5]/617/326–O [6]	37,081,577 square meters of which not more than 5,173,219 square meters shall be in Category 326–O.
331pt./631pt. [7]	1,523,626 dozen pairs.
336/636	974,338 dozen.
338/339	1,961,027 dozen.
340/640	2,216,275 dozen.
341	1,569,076 dozen.
342/642	587,885 dozen.
347/348	2,793,269 dozen.
359–C/659–C [8]	2,184,171 kilograms.
359–S/659–S [9]	2,444,116 kilograms.
360	2,046,215 numbers.
361	2,046,215 numbers.
369–S [10]	1,411,305 kilograms.
433	12,270 dozen.
443	95,319 numbers.
445/446	67,454 dozen.
447	20,134 dozen.
448	21,970 dozen.
604–A [11]	1,007,236 kilograms.
611–O [12]	4,883,603 square meters.
613/614/615	36,970,213 square meters.
618–O [13]	7,196,512 square meters.
619/620	13,108,256 square meters.
625/626/627/628/629–O [14]	36,494,016 square meters.
638/639	2,188,492 dozen.
641	3,474,779 dozen.
643	511,556 numbers.
647/648	4,586,029 dozen.
Group II	
201, 218, 220, 224, 226, 227, 237, 239pt. [15], 332, 333, 352, 359–O [16], 362, 363, 369–O [17], 400, 410, 414, 434, 435, 436, 438, 440, 442, 444, 459pt. [18], 469pt. [19], 603, 604–O [20], 624, 633, 652, 659–O [21], 666pt. [22], 845, 846 and 852, as a group	128,888,953 square meters equivalent.
Subgroup in Group II	
400, 410, 414, 434, 435, 436, 438, 440, 442, 444, 459pt. and 469pt., as a group	3,552,889 square meters equivalent.
In Group II subgroup	
435	55,781 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[7] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[8] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[9] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[10] Category 369–S: only HTS number 6307.10.2005.

[11] Category 604–A: only HTS number 5509.32.0000.

[12] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[13] Category 618–O: all HTS numbers except 5408.24.9010 and 5408.24.9040.

[14] Category 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

[15] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[16] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545 (Category 359pt.).

[17] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

[18] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[19] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[20] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[21] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000. 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[22] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–17630 Filed 7–12–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Products Produced or Manufactured in the Philippines

July 9, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 16, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, shift, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63031, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 9, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on July 16, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
237	2,523,318 dozen.
331pt./631pt. [2]	2,506,935 dozen pairs.
333/334	441,133 dozen of which not more than 63,330 dozen shall be in Category 333.
336	1,110,795 dozen.
338/339	3,813,891 dozen.
341/641	1,247,323 dozen.
342/642	960,782 dozen.
347/348	3,651,305 dozen.
351/651	902,773 dozen.
352/652	3,603,784 dozen.
359–C/659–C [3]	1,339,299 kilograms.
369–S [4]	615,508 kilograms.
443	48,418 numbers.
445/446	32,504 dozen.
447	9,103 dozen.
611	7,854,442 square meters.
633	58,235 dozen.
634	666,044 dozen.
636	2,585,828 dozen.
638/639	2,632,535 dozen.
643	1,387,972 numbers.
645/646	1,128,551 dozen.
647/648	1,701,540 dozen.
659–H [5]	2,243,778 kilograms.
Group II	
200–220, 224–227, 300–326, 332, 359pt. [6], 360, 362, 363, 369pt. [7], 400–414, 434–438, 442, 444, 448, 459pt. [8], 469pt. [9], 603, 604, 613–620, 624–629, 644, 659–O [10], 666pt. [11], 845, 846 and 852, as a group.	202,692,086 square meters equivalent.

Category	Adjusted twelve-month limit [1]
Sublevel in Group II 604	3,190,822 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–S: only HTS number 6307.10.2005.

[5] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[6] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[7] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[8] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[9] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[10] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[11] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–17632 Filed 7–12–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Romania

July 9, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at *http://www.customs.ustreas.gov*. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63033, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 9, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on July 15, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
435	17,381 dozen.
442	17,404 dozen.
443	40,046 numbers.
444	4,829 numbers.
447/448	35,398 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–17629 Filed 7–12–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Buildings and Land at a Military Installation Designated for Closure; Naval Air Station (NAS) Barbers Point, Oahu, HI

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This notice provides information regarding additional surplus property at NAS Barbers Point, Oahu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Richard A. Engel, Head, BRAC Real Estate Section, Naval Facilities Engineering Command, 1322 Patterson Ave SE., Suite 1000, Washington Navy Yard, DC 20374–5065, telephone (202) 685–9203, or J.M. Kilian, Director, Real Estate Department, Pacific Division, Naval Facilities Engineering Command, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, telephone (808) 472–1503. For more detailed information regarding particular properties identified in this notice (i.e. acreage, floor plan, sanitary facilities, exact street address, etc.), contact Mr. Roger Au, Base Operating Support, Pacific Division, Naval Facilities Engineering Command, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, telephone (808) 474–5946.

SUPPLEMENTARY INFORMATION: In 1993, NAS Barbers Point, HI was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990 (DBCRA), Pub. L. 101–510, as amended. Pursuant to this designation, in October 1995, approximately 2,146.9 acres of land and related facilities at this installation were determined surplus to the Federal Government and available for use by (a) non-Federal, public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended. In June 1997, a second determination was made that 5.7 acres of land and related facilities at this installation were surplus to the Federal Government. On September 4, 2001, a third determination was made that 54.9 acres of land and related facilities at this installation were surplus to the Federal Government. On June 27, 2002, a fourth determination was made that 145.8 acres of land and related facilities at this installation were surplus to the Federal Government.

Notice of Surplus Property: Pursuant to paragraph (7)(B) of section 2905(b) of the DBCRA, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding redevelopment authority and additional surplus property at NAS Barbers Point, HI, is published in the **Federal Register.**

Redevelopment Authority: The local redevelopment authority for NAS Barbers Point, HI, of rpurposes of implementing the provisions of the DBCRA, as amended, is the Barbers Point Naval Air Station Redevelopment Commission. The Barbers Point Naval Air Station Redevelopment Commission was appointed by the Governor of the State of Hawaii to provide advice on the redevelopment of the closing Air Station. A cross section of community interests is represented on the Commission. The point of contact is Mr. William Bass, Executive Director, Barbers Point Naval Air Station Redevelopment Commission, PO Box 75268, Kapolei, HI 96707–0268, telephone (808) 692–7924 or 692–7925, facsimile (808) 692–7926.

Surplus Property Descriptions: The following is a listing of the additional land and facilities at NAS Barbers Point, HI that were declared surplus to the Federal Government on June 27, 2002.

Land: One parcel of land consisting of approximately 145.8 acres of fee simple land at NAS Barbers Point, HI on the island of Oahu, State of Hawaii.

Buildings: The following is a summary of the facilities located on the above-described land. Storage buildings: Seven structures of approximately 4,812 square feet.

Expressions of Interest: Pursuant to paragraph 7(C) of Section 2905(b) of the DBCRA, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of NAS Barbers Point, HI shall submit to the said local redevelopment authority (Barbers Point Naval Air Station Redevelopment Commission) a notice of interest, of such governments, representatives, and parties in the above described additional surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of said Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Hawaii, the date by which expressions of interest must be submitted. In accordance with Section 2(e)(6) of said Base Closure Community Redevelopment and Homeless Assistance Act of 1994, expressions of interest will be solicited by the Barbers Point Naval Air Station Redevelopment Commission.

Dated: July 1, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–17711 Filed 7–12–02; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Magneto-Inductive Systems Limited

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Magneto-Inductive Systems Limited, an exclusive license to practice the Government-owned invention described in U.S. Patent No. 6,253,679, entitled ''Magneto-Inductive On Command Fuze and Firing Device,'' issued July 3, 2001.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Coastal Systems Station, Dahlgren, Div, NSWC, 6703 W. Hwy 98, Code CP01L, Panama City, FL 32407–7001.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey A. Gilbert, Counsel, Coastal Systems Station, 6703 W. Hwy 98, Code XP01L, Panama City, FL 32407–7001, telephone (850) 234–4646, fax (850) 235–5497, or E-Mail at *gilbertha@ncsc.navy.mil.*

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: July 1, 2002.

R.E. Vincent, II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–17710 Filed 7–12–02; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE: Thursday, July 18, 2002, 5:30 p.m.–9 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m. Informal Discussion
6 p.m. Call to Order; Introductions; Approve June Minutes; Review Agenda
6:10 p.m. DDFO's Comments
- Budget Update
- ES & H Issues
- EM Project Updates
- CAB Recommendation Status
- Other

6:30 p.m. Ex-officio Comments
6:40 p.m. Public Comments and Questions
6:50 p.m. Action Item Review
7:05 p.m. Break
7:15 p.m. Discussion
- Resolution on Accelerated Clean Up Plan

7:45 p.m. Task Force and Subcommittee Reports
- Water Task Force
- Waste Operations Task Force
- Long Range Strategy/Stewardship
- Community Concerns
- Public Involvement/Membership

8:30 p.m. Administrative Issues
- Review of Workplan
- Review of Next Agenda
- Federal Coordinator Comments

8:45 p.m. Adjourn

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 Pat J. Halsey at the address or by telephone at 1–800–382–6938, #5. Requests must be received five 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 as the first item of the meeting agenda. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

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 at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday thru Friday or by writing to Pat J. Halsey, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling her at 1–800–382–6938, #5.

Issued at Washington, DC on July 3, 2002.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 02–17635 Filed 7–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Beijing Green Olympics Program

AGENCY: Office of Fossil Energy, DOE.

ACTION: Request for comments.

SUMMARY: The Department of Energy (DOE) will be entering into a dialogue with the Beijing City Government in preparation for implementation of the Green Olympics Program. DOE is requesting comments from stakeholders on the best way to use this opportunity to develop markets in China for American firms.

DATES: Comments must be submitted on or before August 14, 2002.

ADDRESSES: Comments should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX (301) 903–1591).

FOR FURTHER INFORMATION CONTACT: Barbara McKee via e-mail at *barbara.mckee@hq.doe.gov,* or by telephone at (301) 903–3820.

SUPPLEMENTARY INFORMATION: In 2001, the City of Beijing was chosen to host the 2008 Summer Olympic Games. Prior to 2008, Beijing will be implementing the ''Green Olympics'' program, where billions of dollars will be invested in new infrastructure projects to improve the city's environment. Central to these investments will be the application of new technologies to improve Beijing's air quality.

The use of fossil fuels dominates China's energy demographic and China represents a large market for American goods and services in energy fields. Additionally, through the Beijing Green Olympics program, there will be substantial business opportunities for American firms with offerings including clean coal and oil and gas technologies, as well as emissions control systems.

DOE is preparing to enter into a dialogue with the Beijing City Government, which is implementing the Green Olympics Program. DOE is interested in its stakeholders' views as to how it can effectively use this relationship to develop market share for American firms.

If there are specific items that anyone would like to see included in this dialogue, please provide that information to Barbara Mckee, Director, Office of Coal and Power Import/Export, at the address, e-mail, and telephone number listed above. A letter from Carl Michael Smith, Assistant Secretary, Office of Fossil Energy, announcing this initiative and requesting comments appears on the Fossil Energy website at *www.fossil.energy.gov*. A copy of that letter also appears on the *Federal Business Opportunities* website at *www.fedbizops.gov*.

Issued in Washington, DC, on July 8, 2002.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal and Power Import/Export, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 02–17634 Filed 7–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Biomass Research and Development Technical Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Pub.

L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee

DATES: August 1, 2002.

TIME: 8:30 a.m.

ADDRESSES: Hilton Crystal City Hotel at National Airport, Crystal Room, 2399 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Douglas E. Kaempf, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585; (202) 586–7766.

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To provide advice and guidance that promotes research and development leading to the production of biobased industrial products.

Tentative Agenda: Agenda will include discussions on the following:

• Full committee discussion on the development of a Vision document for federal biomass research and development programs.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Douglas E. Kaempf at 202–586–7766 or *Bioenergy @ee.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW, Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on July 9, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–17636 Filed 7–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket No. EE–DET–02–001]

Building Energy Standards Program: Determination Regarding Energy Efficiency Improvements in the Energy Standard for Buildings, Except Low-Rise Residential Buildings, ASHRAE/IESNA Standard 90.1–1999.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice.

SUMMARY: The Department of Energy (DOE or Department) today determines that the 1999 edition of the *Energy Standard for Buildings, Except Low-Rise Residential Buildings,* American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Illuminating Engineering Society of North America (IESNA) Standard 90.1–1999, (Standard 90.1–1999 or the 1999 edition) would achieve greater energy efficiency in buildings, except low-rise residential buildings, than the 1989 edition (Standard 90.1–1989 or the 1989 edition). As a result of this positive determination regarding Standard 90.1–1999, each State is required to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency to meet or exceed Standard 90.1–1999 for any ''building'' within the meaning of Section 303(2) of the Energy Conservation and Production Act, as amended. This Notice provides guidance to States on Certifications, and Requests for Extensions of Deadlines for Certification Statements.

DATES: Certifications and Requests for Extensions of Deadlines, with regard to Standard 90.1–1999, are due at DOE on or before July 15, 2004.

ADDRESSES: Certifications, or Requests for Extensions of Deadlines should be directed to the Assistant Secretary for Energy Efficiency and Renewable Energy, Office of Building Technology Assistance, EE–42, 1000 Independence Avenue, SW., Washington, DC. 20585–0121. Envelopes or packages should be labeled, ''State Certification of Commercial Building Codes Regarding Energy Efficiency.''

FOR FURTHER INFORMATION CONTACT: Jean J. Boulin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2K, 1000 Independence Avenue, SW., Washington, DC 20585–0121, Phone: 202–586–9870, FAX: 202–586–1233.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Requirements

Title III of the Energy Conservation and Production Act (ECPA), establishes requirements for the Building Energy Efficiency Standards Program (42 U.S.C. 6831–6837).

ECPA provides that whenever the Standard 90.1–1989, or any successor to that code, is revised, the Secretary must make a determination, not later than 12 months after such revision, whether the revised code would improve energy efficiency in commercial buildings and must publish notice of such determination in the **Federal Register** (42 U.S.C. 6833 (b)(2)(A)). The Secretary may determine that the revision of Standard 90.1–1989, or any successor thereof, improves the level of energy efficiency in commercial buildings. If the Secretary makes a determination that the revised standard will improve energy efficiency in commercial buildings, then not later than two years after the date of the publication of such affirmative determination, each State is required to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency with respect to the revised or successor code for any ''building'' within the meaning of Section 303(2) of ECPA. The State must include in its certification a demonstration that the provisions of its commercial building code, regarding energy efficiency, meet or exceed the revised standard (in this case, Standard 90.1–1999) (42 U.S.C. 6833(b)(2)(B)(i)). If the Secretary makes a determination that the revised standard will not improve energy efficiency in commercial buildings, State commercial codes shall meet or exceed Standard 90.1–1989 or the last revised standard for which the Secretary has made a positive determination (42 U.S.C. 6833(b)(2)(B)(ii)).

ECPA also requires the Secretary to permit extensions of the deadlines for the State certification if a state can demonstrate that it has made a good faith effort to comply with the requirements of Section 304(b) and that it has made significant progress in doing so (42 U.S.C. 6833(c)).

B. Background

1. Publication of Standard 90.1–1999

The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and the Illuminating Engineering Society of North America (IESNA) approved the publication of the 1999 edition of *Energy Standard for Buildings Except Low-rise Residential Buildings*, in June 1999. Several appeals to this decision were heard and subsequently rejected and the 1999 edition was published in February 2000.

The Standard was developed under American National Standards Institute approved consensus standard procedures. The American Society of Heating Refrigerating and Air-Conditioning Engineers submitted the standard to the American National Standards Institute (ANSI) for designation as an approved ANSI standard. In December 2000, after several appeals by the American Gas Association, the 1999 edition of Standard 90.1 was approved as an American National Standard.

2. Workshop and Comments on Analysis Methodology

In arriving at a determination, the Department first reviewed all significant changes between the 1989 edition and the 1999 edition of Standard 90.1. Standard 90.1 is complex and covers a broad spectrum of the energy related components and systems in buildings ranging from simple storage buildings to complex hospitals and laboratories. The size of buildings addressed range from those smaller than single family homes to the largest buildings in the world. The approach to development of the standard changed from that used for the 1989 edition, as did the scope and the way components were defined. We concluded that a simple comparison of the two editions would not be possible. Therefore, we decided to hold a public workshop and seek public comment on our proposed analysis methodology. On February 8, 2000, we proposed a methodology, announced a public workshop, and sought public comment. 65 FR 6195. On February 17, 2000, we held a workshop to obtain comment on the approach we proposed to use. See the summary of the proposed approach in Appendix A.

We requested comments and/or data concerning issues relating to the comparative analysis of Standard 90.1–1989 and Standard 90.1–1999. We especially expressed interest in any comments or data regarding: (1) The seven building types selected for analysis; (2) the 11 representative climate locations proposed for the analysis; (3) the frequency of use of alternative paths to compliance in building standards (e.g., space-by-space versus whole building lighting power allowances); (4) new non-residential building construction data by state or census division and building type; (5) data to quantify the impact of Standard 90.1–1999 on additions and renovations to existing buildings; (6) the prevalence of the semi-heated building envelope subcategory in the building types proposed for analysis; and (7) specific comments on the preliminary energy savings analysis distributed in June 1999.

We received comments from American Electric Power, the American Gas Association, the Edison Electric Institute, GARD Analytics, Inc., the New Buildings Institute, and Virginia Power.

American Electric Power, the Edison Electric Institute, and Virginia Power recognized that, given the numerous assumptions required to simulate the potential impact of the new standard, reasonable minds could differ over both the specific model employed and over the assumptions used in those models. For that reason, they cautioned the Department against becoming involved in a lengthy process aimed at reconciling all approaches. They expressed belief in the results of the initial analysis that the 1999 edition would save energy across a broad section of commercial buildings. We recognized their cautions about the complexity of the problem and magnitude of alternative compliance approaches in the standard. However, we felt obligated to extend the analysis as far as feasible.

The New Buildings Institute supported the proposed methodology for the purpose of a simple yes/no determination but felt that the proposed methodology was inadequate for determining energy savings estimates associated with using Standard 90.1–1999. Here too, we recognized the difficulty of absolute quantification of savings, and make no such claim for the

analysis on which this determination relies.

The American Gas Association argued that the Department should rely solely on quantitative estimates of energy savings as a means of comparing the two editions of Standard 90.1 and minimize the use of qualitative comparisons. We tend to agree with the previous comments from American Electric Power, the Edison Electric Institute, and Virginia Power, and the New Buildings Institute regarding the details of the analysis, and concluded that it was necessary to note changes that individually, or in net, result in increased energy efficiency, even where they could not be accurately quantified. We believe that States can use this information when upgrading their energy codes.

The American Gas Association also expressed a strong belief that the analysis should be based on the minimum requirements of each edition and not on typical design and construction practice. In the area of heating, ventilating and air-conditioning and water heating equipment, the American Gas Association expressed the opinion that the Department should include analysis of equipment market share impacts in its analysis. It also expressed the opinion that the analysis be based on consensus forecasts of commercial construction activity, rather than on existing building stock, and use these forecasts as the basis for energy consumption calculations. It was concerned that the Department select the correct version of the 1989 edition for the baseline and recommended that the baseline be the 1989 edition plus all addenda to that edition, up to the publication of the 1999 edition. Finally, the American Gas Association expressed the belief that the analysis must include a cost-effectiveness and economic justification review.

We agree that the analysis should be based on the minimum requirements of each standard but in assessing the impact of those requirements, we believe that assessment should be based on a realistic estimate of what is being built. We believe that we have done this in our analysis.

We do not believe it is necessary for the Department to perform a quantitative analysis of the likely effects of Standard 90.1–1999 on fuel and equipment market shares in order to support a conclusion regarding the likely net energy savings that would result. Without performing a quantitative analysis of the possible effects on fuel or equipment market shares, there are several reasons why the Department has concluded that these effects are likely to be insignificant. First, since Standard 90.1–1999 places the same requirements on buildings with different types of heating or cooling equipment (and this was also true of previous ASHRAE standards), the impacts of the standard on most building costs should be identical, regardless of the type of energy or equipment used. Second, if the comparative costs and market shares of equipment used in buildings covered by the ASHRAE standard are influenced by other administrative actions taken by the Department of Energy or other government agencies, any effects on fuel market shares that result from such other actions cannot properly be attributed to the ASHRAE standard that is the subject of today's determination. Finally the choice of fuels and equipment by new building designers, builders, and owners is affected by many factors, only a few of which are related to the comparative first costs of the equipment and building systems involved. In cases where comparative equipment and system costs are a significant factor in fuel choice, the small changes in these costs that might be attributable to the ASHRAE 90.1–1999 building standard are very unlikely to significantly affect market shares or the resulting energy savings.

We considered using what the American Gas Association referred to as consensus forecasts of commercial construction activity, rather than data on the existing building stock in our analyses. We concluded, however, that available forecasts are not really consensus forecasts. These latter forecasts are extremely short term in perspective, and reflect that the construction market is likely to remain volatile over the intermediate term. We have therefore used the new construction square footage data from 2001–2010, extracted from the Energy Information Administration's National Energy Modeling System, as the basis for our analysis.

Furthermore, AGA believes that each addendum should be treated as a revision to the standard, thus requiring DOE to issue a determination for each addendum pursuant to Section 304(b)(2) of ECPA, as amended, 42 U.S.C. 6834 (b)(2). AGA has also questioned the appropriateness of the baseline DOE used when comparing the revised ASHRAE Standard 90.1–1999 with its predecessor, ASHRAE Standard 90.1–1989, in order to determine whether the new ASHRAE Standard improves energy efficiency. AGA would have DOE use ASHRAE Standard 90.1–1989 with all of the addenda up until the publication of ASHRAE 90.1–1999 for the comparison.

Section 304(b)(2) of ECPA, as amended, which applies to commercial building code updates, requires that when the provisions of ASHRAE Standard 90.1–1989, or any successor standard, are revised, the Secretary shall, not later than 12 months after the date of such revision, publish a notice in the **Federal Register**, with its determination as to whether the revised standard will improve energy efficiency in commercial buildings. Once the Secretary issues a determination, States have two years, with possible extensions for good faith efforts, to comply with the certification requirements in Section 304(b)(2).

DOE interprets the language in Section 304(b)(2) to mean that when a comprehensive revision of the ASHRAE Standard is published, which in this case is ASHRAE Standard 90.1–1999, then that revised or successor standard triggers the Secretary's obligation to issue a determination as to whether the revised standard improves energy efficiency. This determination is made by comparing the revised or successor standard to the last predecessor standard.

While it is true that the addenda process is part of the ongoing maintenance of the standard and thus continually modifies the existing standard over time, it would be an unreasonable reading of the statute to categorize each addendum in this maintenance process as a ''revised or successor standard'' within the meaning of Section 304(b)(2), so as to require a determination by the Secretary. Such an interpretation of the statute would put an unreasonable burden both on the States and DOE. For the States, a determination by the Secretary requires some State action, and what is required depends upon whether the Secretary issues an affirmative or a negative determination. If the Secretary were required to issue a determination after each addendum was published, the States would be constantly required to change their codes. This would affect the stability and certainty of State commercial building codes. DOE believes that Congress could not have intended this result. Therefore, DOE concludes that the statute only requires a determination by the Secretary when there is a comprehensive revision to the standard.

With respect to the baseline for comparing the energy efficiency of revised ASHRAE Standard 90.1–1999 with its predecessor, ASHRAE Standard 90.1–1989, DOE's position is that the appropriate baseline is ASHRAE

Standard 90.1–1989 with addenda in effect at the time EPACT was enacted. Since this is the first determination for commercial building codes since ECPA was amended by EPACT on October 24, 1992, it is reasonable to interpret section 304(b)'s reference to ASHRAE Standard 90.1–1989 to include the addenda in effect on the date of enactment. DOE interprets the statute to require a comparison of that version of ASHRAE 90.1–1989 (and not any subsequent addenda) with ASHRAE Standard 90.1–1999. If DOE were to adopt the AGA position and include all of the intervening addenda to ASHRAE Standard 90.1–1989 up to the adoption of ASHRAE 90.1–1999 in the baseline, it would render DOE's determination almost meaningless. That is, if all of the post-enactment addenda to ASHRAE Standard 90.1–1989 were included in the baseline, the real energy efficiency improvements (assuming there are any) of the revised standard would be reflected in the baseline. A comparison of a revised standard and the previous standard (under such an interpretation) would always show little, if any, energy efficiency gains. That would defeat the statute's purpose of requiring DOE to compare the energy efficiency of revised standards (*i.e.,* comprehensive revisions of ASHRAE Standard 90.1–1989 or successor standards) with the prior or last standard.

AGA and the Natural Resources Defense Council argue that DOE has a statutory responsibility to determine whether the revised standard would improve energy efficiency in commercial buildings and also whether all new energy efficiency measures are technologically feasible and economically justified. (Letter dated April 12, 2000, from the American Gas Association and the Natural Resources Defense Council, signed by Charles H. Fritts and Katherine Kennedy, to Dan W. Reicher, Assistant Secretary Energy Efficiency and Renewable Energy) They contend that DOE is required to conduct cost-effectiveness and economic justification analyses as part of the process in making its determination concerning ASHRAE Standard 90.1–1999 pursuant to Section 304 of ECPA, as amended. These who commented believe that the statutory scheme, including Section 307, entitled ''Support for Voluntary Building Energy Codes,'' supports its argument.

The statutory language in Section 304(b) states that the Secretary is required to make a determination as to whether any successor standard to ASHRAE Standard 90.1–1989 will improve energy efficiency. The Secretary must publish a notice of this determination in the **Federal Register**. The language does not require that DOE perform an independent economic analysis as part of the determination process. As a matter of fact, Section 304(b) omits any reference to language concerning economic justification.

However, Congress was concerned that the technological feasibility and cost effectiveness of the Voluntary Building Energy Codes be considered. Section 307 clearly requires DOE to participate in the ASHRAE process and to assist in determining the cost effectiveness and technical feasibility of the ASHRAE standard. It also requires DOE to periodically review the economic basis of the voluntary building energy codes and participate in the industry process for review and modification, including seeking adoption of all technologically feasible and economically justified energy efficiency measures.

Unlike Section 307 which specifically includes language concerning economic justification, Section 304 omits any reference to economic justification. It is generally presumed that Congress acts intentionally and purposefully where it includes particular language in one section of a statute but omits it in another section. *See Bates* v. *United States,* 522 U.S. 23, 29–30 (1997). Accordingly, the statutory scheme cannot be read to require an economic analysis as part of the determination process in Section 304(b).

The fact that the Section 304 determination process does not require the Secretary to perform an economic analysis does not diminish the importance that the ASHRAE standards be technologically feasible and economically justified. However, it appears that Congress assumed that these concerns would be worked out by stakeholders, with DOE participating in the ASHRAE process itself. The language of Section 307 clearly delineates DOE as one participant in the process, not the ultimate decision maker of the ASHRAE standard or successor revisions.

Accordingly, for all of these reasons, DOE has determined that it is not required to perform an economic analysis as part of its determination process in Section 304 of ECPA, as amended.

A number of the GARD Analytics comments were incorporated into our analysis. They include: (1) Extending the aggregation to cover buildings with different window area fractions instead of doing a sensitivity analysis; (2) use of the Alternate Component Packages tables in the 1989 edition's envelope section, to make it easier to identify the criteria which should be used in modeling the 1989 edition's envelope criteria; and (3) eliminating estimates of equipment operating hours in weighting equipment efficiency. In addition, we estimated efficiency improvement for cooling equipment and incorporated estimates of both single and three phase unitary cooling equipment less than 65,000 Btu per hour, shipped to commercial buildings.

GARD Analytics suggested we use specific prototype buildings as it did in its analysis, instead of our scaling approach. It also urged us to select specific building sizes for analysis. We believe that by using a scaling approach, we can better assess the impact of building envelope changes. Scaling permits us to better account for the actual ratio of building wall area to floor area in a population of buildings, rather than assume some fraction of the building population has a single size and geometry and that those characteristics hold for all buildings in that fraction of the building population. The size selection of the prototype used for scaling is near the median square footage for most building categories. Using a building size that is close to the median helps ensure that the characterization of secondary effects, such as the transitional performance of the building under thermostat setback conditions, is captured in a manner that is reasonable for the majority of the building population.

GARD Analytics also commented on our use of a one-to-one aspect ratio (the ratio of length to width of a building) in the prototype. While we use an aspect ratio of one-to-one in the prototype simulation, to make the simulation orientation neutral, our scaling process does include typical aspect ratios for all building types to correctly determine the ratio of perimeter and core areas in the building population. GARD Analytics commented that the use of scaling does not allow the use of different lighting power densities for different building sizes, as are shown in the 1989 edition. In our approach the weighted average lighting power density over all Commercial Building Energy Consumption Survey building sizes was used as the basis of our simulation of the 1989 edition's requirements. This correctly characterizes the average lighting improvement over all building sizes.

GARD Analytics also had a number of comments on our proposed methodology. It suggested that selection of building types by baseline energy use was less correct than if it was done by square footage. We disagree. The purpose of selection by energy use, as

opposed to square footage, is to select the building types that will be most significant in terms of national energy use. We believe that as the number of building types used is increased, the set of buildings types selected by either method will converge to the same set.

GARD Analytics also questioned elimination of the in-patient health care facilities category from our analysis and stated that available hospital models could be used. In-patient health care facilities are perceived to have high thermal loads and equipment loads within the health care category. Given the requirements of the 1999 edition, inclusion of this category would increase estimates of energy savings. However, we considered the relatively low ranking of in-patient health care buildings in terms of net energy use and the modest level of future in-patient health care new building growth. This reduced the importance of modeling this category. Finally, we did not have confidence in the representative nature of available in-patient healthcare models. We therefore chose not to simulate this building type separately in our analysis. We believe that not doing so resulted in a conservative estimate of the energy savings attributable to the 1999 edition.

GARD Analytics also commented that we should use the operating schedules and loads from the 1999 edition for the analysis. Our selected schedules are based on accurate measured data and we believe that they are at least as representative of typical buildings as those in the 1999 edition.

GARD Analytics commented on the use of supplemental lighting power allowances. We concluded that the most appropriate lighting power allowances for our quantitative comparison were the whole-building lighting requirements. We commented on the space-by-space requirements and the impact of the supplemental lighting power allowances in our detailed textual analysis.

GARD Analytics commented that we should use the maximum fan power allowances under both standards in our comparison. However, since the maximum fan power allowances are effectively the same in both standards, and are not believed representative of typical building design, we chose to use a more typical fan power usage and thus show a more realistic level of energy usage for buildings under both standards. Utilizing the maximum fan power would increase internal building loads, decrease heating loads and lower building balance temperature. The impact would be to increase absolute energy savings over the 1989 edition.

DOE2.1 and BLAST (Building Loads and System Thermodynamics) are both building energy analysis computer programs. GARD Analytics commented that DOE should use DOE2.1, instead of BLAST, as the basis of the energy simulations. They state that DOE2.1 is more commonly used by building designers and that further development of BLAST is being phased out. DOE disagrees with the comment since BLAST forms the basis of the Department's new, improved simulation tool, Energy Plus, and since DOE is actually phasing out support for DOE2.1.

GARD Analytics commented that we should use the most stringent compliance path on which to do our quantitative analysis. The Department considered this but selected the prescriptive compliance paths on which to base its quantitative analysis, since it is those paths for which specific requirements can be accurately identified for ''prototype'' buildings. Selecting representative requirements from the variable requirements in the other paths becomes highly speculative. We have addressed requirements from these other compliance paths in the detailed textual analysis.

GARD Analytics commented on the selection of climates and regional weighting for our analysis. It felt that DOE's strategy to select the cities (which represent sets of climate data) is suboptimal and ignores the real effect of the standard having different criteria in different climates. We have reviewed our selection of climates and methodology and believe it to be entirely representative and appropriate for this analysis. GARD Analytics also commented that it was unnecessary to use sub-census regions in our aggregation approach. However, we feel that the use of sub-census regions is necessary to correctly represent the variation in energy costs in the western U.S. We believe that it introduces no additional error in the remainder of the analysis.

GARD Analytics made a number of comments that we should do more detailed analyses. Examples of further analysis suggested by GARD Analytics included: state by state comparisons of the standards, the development of lighting power usage using the space-by-space method, inclusion of room air conditioners in the development of the cooling equipment efficiencies, the use of below ground building spaces in the comparison, and the use of marginal energy costs. We reviewed these comments, but concluded that the limited data available for describing building populations and weighting the results of more simulations would not result in a more accurate conclusion to our analysis. A number of these comments are addressed in our detailed textual analysis.

3. Comments on Preliminary Quantitative and Textual Analyses

As a matter of policy to further the determination process, we sought further comments on the application of the methodology and the validity of preliminary conclusions posted on our web site. A summary of comments and responses on common topical issues, regarding the application of the methodology and the preliminary conclusions, follows below. For detailed responses to the comments received, see *Response to Comments on Preliminary Analyses Supporting DOE's Determination Regarding Standard 90.1–1999,* which is part of the administrative record for this Determination Notice. This document may be viewed at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue S.W., Washington, D.C. 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., except Federal holidays, or a copy may be obtained from the Department from the contact person identified above.

We received 12 comments, two from design practitioners (G. Johnson and Kay), four from States or code officials (Lloyd, Weitz, Cowen, Hogan), one representing States in a region (Coakley), one jointly from the two professional societies sponsoring the consensus process that developed the Standard (Wolf and Timmings), one from a public interest group (Goldstein), one from an energy code consultant (J. Johnson), and two representing the gas industry (Ranfone and Hemphill). Two who commented (Johnson and Kay) did not comment on the analysis. One of those who did not comment on the analysis joined four others who commented that the Department was late in making its determination and that the delay was hampering the Region's or State's updating of its energy codes (G. Johnson, Lloyd, Coakley, and Weitz). Of the nine commenting on the analysis, seven felt the analysis was well done or reasonable and agreed with the results. (Lloyd, Cowen, Coakley, Weitz, Wolf and Timmings, Goldstein and J. Johnson). One who commented suggested a change and wanted some further analysis done (Hogan), and another who commented had 35 detailed comments (Hemphill).

Five complained about the amount of time it is taking the Department to make a determination (Johnson, Cowen, Coakley, Weitz, and Goldstein). They stated that the delay was adversely impacting States ability to update their energy codes and gain energy and greenhouse gas benefits.

Five commented that they interpreted the analyses to conclude that there would be a net positive increase in commercial building energy efficiency and agreed with the conclusion for a positive determination. (Coakley, Lloyd, Weitz, Wolf and Timmings, Goldstein, and J. Johnson). Three of these further commented that the analyses were reasonable. One (Weitz) expressed the opinion that this is an achievable standard and indicated that Massachusetts has already adopted a new construction energy code based on the 1999 edition. However, one (Ranfone) commented that DOE should not complete its determination, until such time as an analysis is done to determine whether all new energy efficiency measures are technologically feasible and economically justified, a comment DOE previously addressed above.

One (Hogan) commented, and we agree, that the building envelope criteria for the ''lodging'' category in our quantitative analysis should be taken from the ''residential'' column in the tables in Appendix B of the 1999 edition, rather than from the ''nonresidential'' category, since the only change was in the opaque envelope. We have revised the analysis accordingly.

Hogan also commented that the quantitative analysis should be expanded to include all energy used in buildings, including elevators, exterior lighting for entrances and facades, parking lighting, and parking ventilation, and be expanded to differentiate part-load operation between fan systems with and without variable frequency fans. Data on buildings and building component characteristics are insufficient to accurately include these in our analysis. However, each is addressed in the detailed textual analysis, except for elevators which are not addressed in either the 1989 or 1999 editions of Standard 90.1.

One who commented (Hemphill) submitted 35 detailed comments on our analyses. We agreed in whole or in some part with eleven of these comments and have accordingly made changes or clarifications to our textual analysis. These eleven include comments on: exterior lighting power, interior lighting power—space-by-space, envelope air leakage, floors over unconditioned spaces, opaque wall thermal transmittance, opaque doors, load calculations and sizing, off-hour controls and setbacks, simultaneous heating and cooling controls, air-conditioning equipment, and non-code language. In several cases, while we disagreed with comments, we further clarified our rationale, as noted below.

Six comments received had to do with differing interpretations of the standard. These included comments having to do with lighting power exemptions, lighting integral to equipment, transformers, transportation systems, energy management systems, and the energy cost budget compliance path. On review, we disagreed with the interpretations presented in the comment and made no change. For example, in the case of energy management systems, they are recommended not required, as implied in the comment, in buildings over 40,000 square feet in the 1989 edition. In the 1999 edition, energy management systems are not omitted but are addressed differently, under controls. In the case of the comment on the energy cost budget compliance path, we believe that both editions establish a baseline of requirements from the prescriptive compliance approach and require the energy cost of the design to be equivalent or less than the baseline. We therefore believe that in each edition the energy cost budget compliance path criteria are roughly equivalent to the prescriptive compliance path.

The comments of Hemphill, which related to transformers, transportation systems, and energy management systems, suggested that we might have missed some differences between the two editions of the standard. On inspection we found that we had missed some differences. Therefore we have added analysis that addresses the subdivision of electric power feeders and provisions for check metering of loads.

Eight comments received had to do with differing opinions on appropriate approaches to the textual analysis. These included comments on the subjective nature of the analysis of the envelope section, exit signs, the use of the prescriptive compliance path and not the performance paths in the analysis, our conclusions on the lighting power exemptions, window thermal transmittance and solar heat gain, temperature reset controls, and heating equipment. Four of these comments provide no suggestion of an alternative approach. We believe that our approach in the textual analysis provides useful information to states which will adopt the standard, even if the changes cannot be fully quantified. In the case of exit signs, and heating equipment, we did not agree that, where there were no criteria in the 1989 edition and there were criteria in the 1999 edition, we could not or should not project savings. No changes were made in response to these comments except for the comment on window thermal transmittance, where explanatory text was added to the textual analysis.

Six other comments were received with which we disagreed but which led us to adding explanatory text to the textual analysis. This was done in the analysis relative to speculative building envelopes, envelope thermal transmittance in cold climates, slab on grade and below grade wall insulation, roof thermal transmittance, temperature controls, and pipe and duct insulation. One of these, the comment on pipe and duct insulation appeared to be a misinterpretation of what we wrote. In addition, more analysis was done on the subject of roof thermal transmittance.

Five comments appear to have been a misinterpretation of our written analysis. These comments concerned parts of our whole building interior lighting power criteria, interior lighting controls and separate air distribution systems, radiant heating, and service water heating equipment. In the case of the comment on interior lighting controls, there are also opinions stated without support. Review of our explanations did not suggest any change.

One (Hemphill) argued that there was no difference in scope between the two editions. However, four others (Coakley, Weitz, Wolf and Timmings, and Goldstein) all recognized the expansion of the scope of the 1999 edition to renovations of existing buildings. We agree with the latter majority opinion including those representing the organizations sponsoring the two editions. We note that through the mid 1990s the American National Standards Institute recognized the ASHRAE Standard 100 series, that explicitly addressed existing buildings. Under American National Standards Institute policy, two standards (Standard 90.1–1989 and ASHRAE Standard 100) could not address existing buildings.

One (Hemphill) interpreted our analysis regarding increasing the scope of the 1999 edition to existing buildings to imply that the increased energy efficiency could approach 50 percent of the energy use reduction from new construction and expressed the opinion that there was absolutely no basis for this assertion, and that the implication was wholly inappropriate. Another

(Wolf and Timmings) commented on the subject that industry estimates indicate that at least 60 percent of heating and cooling equipment sales are for replacement markets, and only 40 percent for new buildings, but did not provide a source for this estimate. We continue to believe that it is difficult to quantify the energy efficiency impact of the change in scope to include existing buildings. We will not attempt to estimate the impact of this change. Today's determination does not address or rely on this difference.

C. Summary of the Comparative Analysis

We carried out both a broad quantitative analysis and a detailed textual analysis of the differences between the requirements and the stringencies in the 1989 and the 1999 editions.

1. Quantitative Analysis

The quantitative comparison of energy codes was done using whole-building energy simulations of buildings built to each standard. We simulated seven representative building types in 11 representative U.S. climates. Only differences between new building requirements were considered in this quantitative analysis. The simulations were based on a 15 zone building prototype used in previous DOE building research. The simulated Energy Use Intensities (EUI) for each zone were scaled to correctly reflect variations in building size and shapes for each representative building type. Energy use intensities developed for each representative building type were weighted by total national square footage of each representative building type to provide an estimate of the difference between the national energy use in buildings constructed to both editions. A more detailed explanation is located in Appendix B to this notice.

The quantitative analysis of the energy consumption of buildings built to the 1999 edition, compared with buildings built to the 1989 edition for new buildings, indicates national source energy savings of approximately 6.4 percent of commercial building energy consumption. Site energy savings are estimated to be approximately 4.5 percent. These figures represent a conservative estimate of energy savings for new buildings.

2. Detailed Textual Analysis

We also performed a detailed analysis of the differences between the textual requirements and stringencies of the two editions of Standard 90.1 concerning the scope of the standard, the building envelope requirements, the building lighting and power requirements, and the building mechanical equipment requirements. The detailed textual analysis addresses a number of differences that, while very real, we could not accurately or reliably quantify because of lack of reliable information about the building stock and the incorporation of various components and equipment in various parts of the country. Therefore, the detailed textual analysis makes no attempt to quantify the differences between the 1989 and 1999 editions.

The emphasis of our detailed requirement and stringency analysis was on differences between the envelope, lighting, and mechanical sections of both editions of Standard 90.1.

The lighting requirements comparison focused on the impact the different lighting requirements have on lighting energy use, as well as on building loads. The comparison looked separately at the whole building and space-by-space lighting requirements in both standards in a variety of commercial building types, as well as examined the effect of any ''additional lighting power allowances.'' It also looked at controls.

The mechanical requirements comparison looked at equipment efficiency requirements and system design requirements. The system design requirements affect the system efficiency, system thermal load, and also had some direct energy impacts.

In comparing the envelope requirements, we made judgements of relative stringency and frequency of occurrence of components.

Each standard has multiple ways to demonstrate compliance. We did not perform a detailed comparison of the relative stringency of the alternate paths internal to a single standard or between standards. The large number of variables among the alternative compliance paths made such a comparison prohibitive to undertake. Further, we knew of no data on which to base the selection of representative requirements for such an analysis. Assignment of requirements would have been arbitrary. Rather we focused on the prescriptive compliance paths in each section, which we believe represent the most common approach to using the standard in question for most buildings.

D. Determination Statement

The Department's review and evaluation found that there are significant differences between the 1989 edition and the 1999 edition. Our overall conclusion is that the 1999 edition will improve the energy efficiency of commercial buildings, even though in certain limited instances stringencies for some requirements are reduced. However, we found a number of changes in textual requirements and stringencies that will decrease energy efficiency. Overall, we concluded the changes in textual requirements and stringencies are ''positive,'' in the sense that they will improve energy efficiency in commercial construction. Our quantitative analysis shows, nationally, new building efficiency should improve by about six percent, looking at source energy, and by about four percent, when considering site energy. DOE has therefore concluded that the 1999 edition should receive an affirmative determination under Section 304(b) of the Energy Conservation and Production Act for ''buildings'' within the meaning of Section 303(2).

II. Results of Quantitative Analysis

Tables 1 and 2 show the aggregated energy use and associated energy savings by building type for the seven categories analyzed and on an aggregated national basis for the 1989 and 1999 editions, respectively. See Appendix B for an explanation of the methodology we used. For each edition the building floor area weight is used to calculate the building energy or cost use intensity. The electric and gas building energy use intensity is presented for each type analyzed with electric predominating in all types. Site energy use intensities ranges from more than 137 thousand Btu per square foot annually for the Food building type to more than 18 thousand Btu per square foot annually for the Warehouse building type. Source energy use intensities have similar ranges as site energy ranges but vary in quantitative order from site energy intensities. (Lodging and Office rank 4th and 5th respectively for site energy, while for source energy their ranking is reversed, 5th and 4th respectively.). Building energy cost intensities are also presented.

TABLE 1.—ESTIMATED ENERGY USE INTENSITY BY BUILDING TYPE—1989 EDITION

Building type	Building type floor area weight	Whole building energy use intensity (kBtu/sf-yr or $/sf-yr)				
		Electric	Gas	Site EUI	Source EUI	$UI
Assembly	0.068	61.55	32.18	93.73	231.78	1.48
Education	0.218	35.65	18.86	54.50	134.47	0.87
Food	0.027	101.60	35.52	137.12	363.04	2.32
Lodging	0.079	42.80	17.61	60.41	155.88	1.00
Office	0.190	49.85	5.61	55.45	165.00	1.09
Retail	0.246	57.14	3.95	61.09	186.39	1.23
Warehouse	0.173	10.43	8.19	18.62	42.32	0.27
National	.....	43.36	12.09	55.44	151.52	0.99

TABLE 2.—ESTIMATED ENERGY USE INTENSITY BY BUILDING TYPE—1999 EDITION

Building type	Building type floor area weight	Whole building energy use intensity (kBtu/sf-yr or $/sf-yr)				
		Electric	Gas	Site EUI	Source EUI	$UI
Assembly	0.068	55.71	33.88	89.59	215.04	1.37
Education	0.218	31.59	20.05	51.64	122.88	0.79
Food	0.027	102.78	34.91	137.69	366.12	2.35
Lodging	0.079	41.04	15.94	56.98	148.41	0.95
Office	0.190	44.56	6.32	50.88	148.95	0.98
Retail	0.246	48.14	5.17	53.31	159.08	1.05
Warehouse	0.173	17.91	9.11	27.02	67.15	0.43
National	.....	40.04	12.91	52.95	141.88	0.92

Table 3 presents the estimated percent energy savings between the 1989 and 1999 editions. Overall, considering those differences that can be reasonably quantified, the 1999 edition will increase the energy efficiency of commercial buildings. However, this is not true for new buildings of all building types. In the case of the Food Service and the Warehouse building categories, the 1999 edition will allow increased energy usage. This is primarily due to an increased lighting power allowance for these building categories under the 1999 edition. Numbers in Table 3 represent percent energy savings. Thus, negative numbers represent increased energy use.

TABLE 3.—ESTIMATED PERCENT ENERGY SAVINGS WITH 1999 EDITION—BY BUILDING TYPE

Building type	Building type floor area weight	Percent reduction in whole building energy use intensity				
		Electric	Gas	Site EUI	Source EUI	$UI
Assembly	0.068	9.5	−5.3	4.4	7.2	7.5
Education	0.218	11.4	−6.3	5.2	8.6	9.0
Food	0.027	−1.2	1.7	−0.4	−0.8	−0.9
Lodging	0.079	4.1	9.5	5.7	4.8	4.7
Office	0.190	10.6	−12.7	8.2	9.7	9.8
Retail	0.246	15.7	−30.7	12.7	14.7	14.9
Warehouse	0.173	−71.6	−11.3	−45.1	−58.7	−59.7
National	1.000	7.6	−6.8	4.5	6.4	6.6

A comparison of energy savings by building type for each of the different standard scenarios modeled is shown in Table 4, to give an idea of where most of the savings or increases derive. For example, we estimate a slight percentage increase in energy use intensity indicated in the ''1989 edition with 1999 edition envelope requirements'' row, indicated by the negative savings. Similarly there is an estimated percentage increase in gas energy use intensity indicated in the ''Gas EUI'' column, also indicated by negative savings. Conversely, other rows indicate estimated percentage reduction in energy use intensity for lighting and mechanical requirements.

TABLE 4.—PERCENT ENERGY SAVINGS FROM 1989 EDITION

[National figures, all building types]

Standard scenario	Electric EUI	Gas EUI	Site EUI	Source EUI	$UI
1989 edition	0	0	0	0	0
1989 edition with 1999 edition envelope requirements	−0.1	−4.3	−0.9	−0.3	−0.3
1989 edition with 1999 edition lighting requirements	5.9	−8.3	2.8	4.6	4.9
1989 edition with 1999 edition lighting and envelope requirements	6.0	−10.1	2.5	4.6	4.8

TABLE 4.—PERCENT ENERGY SAVINGS FROM 1989 EDITION—Continued

[National figures, all building types]

Standard scenario	Electric EUI	Gas EUI	Site EUI	Source EUI	$UI
1989 edition with 1999 edition mechanical requirements	2.2	3.0	2.4	2.3	2.2
1999 edition compliant buildings	7.6	−6.8	4.5	6.4	6.6

III. Discussion of Detailed Textual Analysis

The 1999 edition is written in code language and as a result excludes some of the guidance provided in the 1989 edition. Although the guidance in the 1989 edition is not enforceable, it provided designers with suggestions for implementing energy efficient solutions. However, the guidance in the 1989 edition made it difficult for designers and code officials to quickly identify the relevant criteria.

A. Lighting and Power

1. Interior Lighting Power Exemptions

The 1989 edition entirely exempts a number of lighting categories such as display or accent lighting for galleries, and lighting in spaces designed for the visually impaired. In doing so, it also exempts controls for those lights. While the 1999 edition exempts the lighting power requirements, it retains requirements for controls in the exempted areas. Lighting for outdoor manufacturing, commercial greenhouses, and process facilities; and special lighting for research are exempt in the 1989 edition but not in the 1999 edition. These differences can be expected to result in some reduction in lighting power use as a result of the additional coverage in the 1999 edition. Conversely, there are a number of narrowly targeted exemptions in the 1999 edition that are not in the 1989 edition. These include: lighting integral to equipment installed by its manufacturer; lighting integral to open and glass enclosed refrigerator and freezer cases; lighting integral to food warming and preparation equipment; lighting in interior spaces that have been designated as a registered interior historic landmark; exit signs; lighting that is for sale or lighting educational demonstration systems; and casino gaming areas. The first three of these are not generally controlled by the 1989 edition because they are rarely known at the time the lighting plans are approved. While portions of gaming areas are often considered entertainment areas and exempt, the broader 1999 edition exemption can be expected to increase energy use in casinos. Lighting for landmark interiors might also increase in some cases. The net effect of these differences in exempted spaces is expected to be a small increase in efficiency in the 1999 edition.

2. Exterior Lighting Power

The 1989 edition prescribes maximum installed lighting power (Watts/square foot or Watts/ linear foot) for exterior building and grounds areas that, when added together, become the allowed exterior wattage. The 1999 edition sets similar criteria for exits, entrances and surface areas or facades, but also adds an efficacy requirement of 60 lumens per Watt in luminaries of more than 100 Watts. There is a three Watts per lineal foot increase in allowable wattage for entrances without canopies in the 1999 edition. However, there is a decrease in allowable wattage for all exits (five Watts per lineal foot), and for high traffic canopied entrances (seven Watts per square foot), and for light traffic canopied entrances (one Watt per square foot). The net impact is unknown as data on the number of building entrances and exits and their characteristics are not known.

For loading areas, loading doors, storage and non-manufacturing work areas, and driveways, walkways, and parking lots, the 1999 edition deviates from the 1989 edition by eliminating any Watts/square foot or Watts/linear foot maximums and instead sets an efficacy requirement of 60 lumens per Watt (more than 100 Watts per luminaire). This requirement in the 1999 edition eliminates the use of low efficiency technologies, such as incandescent lamps, and allows the economics of fixture and energy cost to restrict the exterior lighting use to the minimum needed. We are aware of no data on which to make a judgement as to net decrease or increase in energy use from this change.

3. Lighting Controls—Interior

The 1989 edition requires control points for each task or group of tasks within a 450 square foot area. It ''counts'' control ''points'' (one for manual, two for occupancy sensors, etc.) to show compliance with this requirement, giving credit to automatic controls versus manual ones. It further sets a minimum of one control for each 1,500 Watts of lighting. In place of this task control requirement, the 1999 edition requires all buildings more than 5,000 square feet in size to have automatic lighting shutoff in all spaces using time of day, occupancy sensor or similar methods. Buildings more than 5,000 square feet make up approximately half the number of commercial buildings built and more than 89 percent of the floor area constructed. This should save energy in these buildings during unoccupied hours. Where occupant sensors are used to comply with the requirement, the savings should be greatest, since this will shut off lights in unoccupied individual spaces, even during regular business hours.

The 1999 edition adds control requirements for six specific lighting functions: all task lighting, hotel/motel guest rooms, display/accent lighting, case lighting, nonvisual (plant growth, food warming), and demonstration (for sale or for lighting demonstration). Furthermore, the 1999 edition requires that spaces up to 10,000 square feet in size have at least one control per 2,500 square feet and that larger spaces have one control per 10,000 square feet. In buildings with large open areas with multiple task areas lit by general lighting, the 1989 edition would require more (total manual or automatic) switching than the 1999 edition. The 1999 edition instead reduces lighting use in unoccupied spaces with automatic controls that do not require human intervention. The 1999 automatic control requirements are more likely to reduce lighting energy use in these spaces, than the manual controls permitted in the 1989 edition.

The 1989 edition provides lighting control credits for use in calculating interior lighting power densities to encourage the use of automatic controls. For each area or group of lights that are controlled by an occupancy sensor, lumen maintenance sensor, daylight sensor, or combination of sensors, the design connected lighting power value, used in showing compliance, can be reduced from 10 percent to 40 percent, depending on the controls used. This allows more lighting power to be used in the space in exchange for the use of an automatic lighting control. The 1999 edition requires the use of automatic

controls without allowing an increase in connected power.

The 1989 edition requires permanently wired lighting fixtures and switched receptacles in hotel suites of rooms to be controlled at the entrance to each room. The 1999 edition further requires this control to be at the entrance of the entire suite area. The 1999 edition should save energy by making it easier to turn off all the lights on the way out.

4. Ballast Efficacy Factor

The 1989 edition includes a minimum ballast efficacy factor. The 1999 edition does not. However, new ballast manufacturing standards, required under the Energy Policy and Conservation Act, serve the same purpose and no longer make it necessary to include such criteria in the 1999 edition. There will be no change in energy use as a result of this difference.

5. Exit Signs

The 1999 edition includes an additional section specifying a minimum efficiency (35 lumens per Watt) for all exit signs operating at greater than 20 Watts that is intended to eliminate the use of standard incandescent lamps in exit signs. This will essentially eliminate the use of incandescent exit signs thereby reducing energy consumption.

6. Interior Lighting Power—Whole Building

The 1999 edition provides greater clarity in specifying the calculation of luminaire or lighting system wattage that covers self ballasted, remote ballasted, track lighting systems and other miscellaneous lighting. This could eliminate some underestimation of installed lighting power. For example, it is common for a fluorescent lighting fixture to be described by builders (with respect to power consumption) as the simple sum of the lamp wattages while ignoring ballast energy use.

The 1989 edition presents a set of whole building lighting power density requirements for 11 building types in six different building size ranges (0–2,000; 2,001–10,000; 10,001–25,000; 25,001–50,000; 50,001–250,000; and greater than 250,001 square feet). The 1999 edition presents a single set of whole building lighting power density requirements for 31 building types without building size variation. For four of the building types, where there is a reasonable match between 1989 and 1999 editions, the 1999 allowance is higher by 0.06 to 0.64 Watts per square foot. Seven other matched building types show the 1989 edition having lighting power allowances 0.20 to 0.80 Watts per square foot higher than in the 1999 edition. Considering all eleven matched building types, there is an average reduction of 0.11 Watts per square foot with the 1999 edition. Within the two building types representing the largest percentage of building floor area in the commercial sector (office and retail) the reductions with the 1999 edition are 0.40 Watts per square foot for office and 0.60 Watts per square foot for retail buildings. Because there is an average reduction of lighting power densities from the 1989 edition to the 1999 edition in all matching building types, and also a reduction in the lighting power densities allowed in the two largest building types (office and retail), the overall effect of the whole building lighting power density requirements in the 1999 edition will be to provide increased energy efficiency in most building types. However, it should be noted that there is an increase in the lighting power allowance for warehouse and storage type buildings which are significant in terms of total commercial building area. We expect a net reduction in energy use, with the whole building requirements. (See also the quantitative analysis of lighting requirements, Table 4.)

7. Interior Lighting Power—Space-By-Space

Both the 1989 and 1999 editions present individual building space lighting power allowance values for use in applying a space-by-space compliance method where individual space lighting power is aggregated to arrive at a building total power allowance. The 1989 edition's tabulated space-by-space allowances are used in the compliance process only after they have been adjusted by an Area Factor (AF) ranging from 1.0 to 1.8. This factor is used to increase the allowed lighting power when the shape of the room (the size and height) necessitates the use of additional lighting power to achieve certain levels of illuminance. The area factor that can be used to calculate some space type allowances is limited. For example, the allowance for sports playing areas, corridors, open offices, and mechanical rooms cannot be modified by an area factor, while the allowance for enclosed offices can be modified by an area factor of up to 1.55. Spaces that are used for multiple functions, such as auditoriums, conference, banquet, and meeting rooms, are allowed an additional lighting power adjustment factor of 1.5. By contrast, this adjustment for room dimensions is already built into the 1999 edition's space lighting power values, so adjustments for space dimensions are not permitted. The 1999 edition does allow some additional lighting power allowances to accommodate specific lighting needs. These include additional power for decorative lighting (1.0 Watt per square foot), additional power for VDT terminal lighting (0.35 Watts per square foot), and additional power for retail display lighting. In the latter case, either 1.6 Watts per square foot of specific display area is allowed for general merchandise highlighting, or 3.9 Watts per square foot of specific display area is allowed for valuable merchandise highlighting. This additional power is only allowed if the specified luminaries are installed and can only be used for the specific purpose noted.

It is difficult to assess the actual impact from the use of the 1999 edition's space-by-space method versus the 1989 edition's. This is because the allowed power density for a building will depend greatly on the space makeup of the building, the individual room dimensions (affecting the area factor adjustment) and any additional allowances that may apply. However, the average of all matching 1989 and 1999 edition power density space values shows a 0.36 Watts per square foot decrease in the 1999 edition's values from those in the 1989 edition. Identical room geometry configurations (based on those used in the development of the 1999 edition's lighting power densities) were taken into account in reaching this conclusion. Furthermore, it is important to consider the items in both editions that can modify these lighting allowances. For example, the 1989 edition would allow the use of a 1.5 additional lighting power adjustment factor for multipurpose spaces, such as ''Auditorium,'' ''Conference/Meeting Room,'' and ''Banquet/Multi-Purpose Space.'' Whereas the 1999 edition would be even more energy efficient because there is no such area factor adjustment.

Determining the impact of the additional power allowances in the 1999 edition is difficult, since any comparison with values in the 1989 edition uses either example buildings or lighting models. Using either example buildings or lighting models requires many assumptions regarding what is ''typical '' in each type of space and how each space is used. For example, in the 1989 edition, the base lighting power density for a mass merchandise store in a warehouse type setting is 3.3 Watts per square foot. With the application of an appropriate area factor (1.05), the 1989 edition's adjusted

power allowance is 3.46 Watts per square foot. The 1999 edition starts with a base lighting power density for all retail establishments of 2.1 Watts per square foot. The 1999 edition allows additional lighting power for certain lighting activities including retail sales lighting. These come in the form of an additional 1.6 Watts per square foot of lighted area for merchandise highlighting and 3.9 Watts per square foot of specific fine merchandise display. The application of these allowances will depend on the layout of the retail space and how and at what height lighting is employed. This is similar to how the area factor in the 1989 edition depends on the geometry of the individual space.

Office space lighting has a similar difference between the two editions. The 1999 edition offers an additional power allowance for visual display terminal lighting. Spaces with decorative lighting similarly are allowed extra power only for the decorative lighting used. No such allowances are included in the 1989 edition's values.

To make some assessment of the possible impact of these additional allowances, we developed characteristics of a space under the 1999 edition whose total space lighting power allowance would match that of the 1989 edition. For this comparison, we determined what additional lighting power allowances would need to be applied to the 1999 edition's base value to match the 1989 edition's value. This comparison allows for a determination of any stringency associated with the use of the low base numbers in the 1999 standard. In some of these cases a range of power values represents the possible variation in calculated values using the 1989 standard. The 1999 standard allows for only one base value. Table 5 presents comparisons for a variety of representative cases.

TABLE 5.—ADDITIONAL LIGHTING POWER ALLOWANCE IN THE 1999 EDITION NEEDED TO MATCH THE 1989 EDITION LIGHTING POWER ALLOWANCE

Space type [Additional lighting type]	1989 edition adjusted total power	1999 edition base power	Possible scenarios of use of additional power in 1999 to equal 1989 edition value
Hotel Lobby [Decorative]	2.51	1.7	Permits 20 percent of the entire space to have decorative lighting.
Office—enclosed [Visual Display Terminal].	2.38	1.5	Cannot reach the1989 edition's value (Max 1999 value = 1.85).
Office—open [Visual Display Terminal].	2.51	1.3	Cannot reach the 1989 edition's value (Max 1999 value = 1.65).
Jewelry Retail [Highlight Merchandise].	5.88 to 7.40	2.1	In most cases, one cannot reach the 1989 edition's value (Max 1999 value = 6.00). Need to have 97 percent of the entire space covered with spotlighted fine merchandise displays, to reach the 1989 edition's lower value.
Fine Merchandise Retail [Highlight Merchandise].	3.36 to 4.23	2.1	Need to have between 32 and 55 percent of space dedicated to spotlighted fine merchandise displays—or, more than 78 percent of the space dedicated to spotlighted general displays, to reach the 1989 edition's value.
Mass Merchandise (big box) Retail [Highlight Merchandise].	3.30	2.1	75 percent of space dedicated to spotlighted general displays—OR—30 percent of space dedicated to spotlighted fine merchandise displays, to reach the 1989 edition's values.
Department Store Retail [Highlight Merchandise].	3.10 to 4.10	2.1	Need to have between 26 and 51 percent of space dedicated to spotlighted fine merchandise displays, or over 62 percent of the space dedicated to spotlighted general displays, to reach the 1989 edition's values.
Food and Misc. Retail [Highlight Merchandise].	2.80	2.1	Need to have 43 percent of space dedicated to spotlighted general displays, to reach the 1989 edition's values.
Service Retail [Highlight Merchandise].	2.84 to 3.57	1.05 to 1.32	Need to have between 46 and 92 percent of the entire space dedicated to spotlighted general displays, to reach the 1989 edition's values.
Mall Concourse [Highlight Merchandise].	1.40 to 1.85	1.8	The 1999 value is within or close to possible 1989 values.

In the case of the hotel lobby it would be possible to use the decorative lighting power credit in 20 percent of the entire space without exceeding the requirements of the 1989 edition, which is quite reasonable. However, in the case of the mall concourse example, no additional lighting power allowance is required for the 1999 edition lighting power allowance to equal or exceed the 1989 edition value. By contrast, the enclosed and open office examples show that the 1989 edition lighting value cannot be achieved, even with the maximum allowance possible applied.

In the case of Jewelry stores, in most cases one cannot reach the 1989 value. Where one can reach the 1989 value, it would require an unreasonable 97 percent of the entire sales area to be covered with fine merchandise displays, in order to meet the 1989 value. In the Mass Merchandising, Food and Miscellaneous Retail and Service Retail categories, the additional areas of highlighted merchandise required to match the 1989 values are excessive and generally unrealistic. In the remaining two examples (fine Merchandise and Department Store) the 1989 edition lighting values can be achieved with additional lighting power scenarios that are generally reasonable for some of the spaces, but only where low room cavity ratio values occur. Overall, these results indicate that the 1999 edition lighting values are more stringent, with the additional lighting power allowances more than compensated for by the reduction in base lighting power in the 1999 edition.

8. End Use Metering

The 1989 edition had requirements for the subdivision of electrical power feeders by use category, to facilitate end-use metering in buildings with more than 250 kVA connected load. In addition it had provisions to check meter loads of individual tenants with more than 100 kVA of connected load. The removal of requirements for

subdividing metering loads, in the 1999 edition, will make check metering and commissioning of these systems more difficult. In doing so, it will likely result in some increase in energy consumption.

9. Transformers

The 1989 edition suggested that building transformers be selected to optimize the combination of no-load, part-load, and full-load losses, and had a requirement that an annual operating cost calculation be done and added to the electrical design documentation for buildings with total building transformers more than 300 kVA. The requirement has been removed from the 1999 edition. However, the 1989 edition did not provide for a comparison over multiple possible system designs, that might have produced more efficient options. Thus, the removal of the requirement is unlikely to have a significant impact on building efficiency.

10. Motors

The 1989 edition had motor efficiency requirements for motors operating more than 500 hours per year. However, the efficiency levels included are less efficient than Federal manufacturing standards enacted in 1992 and thus have no impact on building efficiency.

B. Building Envelope

1. Air Leakage

The 1989 edition provides a series of air-leakage standards or requirements that individual components must meet. The 1999 edition replaces all these standards with a requirement to use the National Fenestration Rating Council's, *Procedure for Determining Fenestration Product Air Leakage,* NFRC 400, as the test procedure. Table 6 compares the air leakage requirements for envelope openings in the two editions. The number in the right-hand column indicates that the 1999 edition permits more air leakage and is therefore less stringent.

TABLE 6.— COMPARISON OF AIR LEAKAGE REQUIREMENTS IN THE 1989 AND 1999 EDITIONS.

Product	1989 edition	1999 edition	1989–1999 difference
Windows:	.		
Aluminum Framed, Operable	0.37 cfm/lon ft	0.4 cfm/ft^2	+0.03
Aluminum Framed, Jalousie	1.5 cfm/f2	0.4 cfm/ft^2	−1.10
Aluminum Framed, Fixed	0.15 cfm/ft^2	0.4 cfm/ft^2	+0.25
Vinyl Framed	0.06 cfm/ft^2	0.4 cfm/ft^2	+0.34
Wood Framed, Residential	0.37 cfm/ft^2	0.4 cfm/ft^2	+0.03
Wood Framed, Light Commercial	0.25 cfm/ft^2	0.4 cfm/ft^2	+0.15
Wood Framed, Heavy Commercial	0.15 cfm/ft^2	0.4 cfm/ft^2	+0.25
Skylights	0.05 cfm/ft^2	0.4 cfm/ft^2	+0.35
Doors:	.		
Aluminum Sliding	0.37 cfm/ft^2	0.4 cfm/ft^2	+0.03
Vinyl Sliding	0.37 cfm/ft^2	0.4 cfm/ft^2	+0.03
Wooden, Residential	0.34 cfm/ft^2	0.4 cfm/ft^2	+0.06
Wooden, Light Commercial	0.25 cfm/ft^2	0.4 cfm/ft^2	+0.15
Wooden, Heavy Commercial	0.10 cfm/ft^2	0.4 cfm/ft^2	+0.30
Commercial Entrance, glazed	1.25 cfm/ft^2	1.0 cfm/ft^2	−0.25
Commercial Entrance, opaque	1.25 cfm/f2	0.4 cfm/ft^2	−0.85
Residential Swinging	0.50 cfm/ft^2	0.4 cfm/ft^2	−0.10
Aluminum Wall Sections	0.06 cfm/ft^2	Not covered	+

The impact of these changes on energy efficiency is hard to evaluate. Air leakage requirements for windows are less stringent for six window types and more stringent in one window type in the 1999 edition. Skylight requirements are more stringent in the 1999 edition than in the 1989 edition. Doors are more stringent for three types and less stringent for five other types, in the 1999 edition. Jalousie windows are not a predominate window type in commercial construction, but there has been a significant increase in allowed leakage rate for other window types under the 1999 edition. Therefore, the overall impact in comparing the requirements for window air leakage is a reduction in stringency.

For doors, there are significant increased leakage rates for wooden doors and slight increased leakage for sliding doors. However for the categories of ''Commercial entrance doors'' and for ''All other commercial doors,'' there are expected to be significant reductions in allowed leakage. Because of the predominance of commercial steel doors in the latter category, we believe door air leakage requirements are more stringent in the 1999 edition.

The 1999 edition does include additional requirements for loading dock weather seals in colder climates (greater than 3,600 heating degree days, base 65 degrees Fahrenheit) and also a requirement for vestibules in commercial building entrance doors. Vestibules are not required in climates of less than 1,800 heating degree days, base 65 degrees Fahrenheit; in buildings of less than four stories; where doors open directly from a dwelling unit; where doors open directly from a space less than 3,000 square feet in area; in buildings entrances with revolving doors; and where doors are used primarily to facilitate vehicular movement or material handling and adjacent personnel doors. These requirements are not present in the1989 edition. The combination of the more stringent requirements for ''commercial'' doors and loading dock and vestibule requirements should improve energy efficiency in buildings where they are required.

We would expect there to be fewer doors than windows in most commercial buildings. We therefore expect an overall decrease in stringency due to air leakage under the 1999 edition.

2. Insulation Installation

The 1999 edition requires that insulation be installed in substantial contact with the inside surface of cavities. It also requires that lighting fixtures, heating, ventilating, and air-conditioning, and other equipment not be recessed in such a manner as to affect the insulation performance. Finally, the 1999 edition bans installation of insulation on suspended ceilings with

removable ceiling panels. The 1989 edition does not address this subject at all. These 1999 edition insulation installation requirements are expected to save energy in commercial buildings.

3. Allowance for Speculative Buildings

Buildings constructed on speculation that they will be leased or occupied by as yet unknown occupants are referred to as ''speculative'' buildings in the 1999 edition. Speculative buildings are often designed and the envelope constructed prior to the final occupancy being known. Both the 1989 and 1999 editions cover this issue, albeit in somewhat different fashion. The 1989 edition sets the most stringent envelope requirements likely to be encountered to be installed in the building from the start, while the 1999 edition allows a less stringent envelope to be installed to accommodate a less demanding occupancy (such as a semi-heated warehouse), but then requires an upgrade to the envelope efficiency if the building use changes to a more demanding occupancy (such as office space). We believe that under the 1999 edition the transition from a semi-heated space (such as the conversion of a warehouse heated for freeze protection only to a conditioned space for other use such as office) would entail the addition of heating capacity, and likely cooling capacity in most climates. Similarly, changes in lighting would likely occur. Building inspections would normally be required which would trigger a review of energy code requirements. While these approaches differ, we do not believe the difference will impact the overall energy use of commercial buildings.

4. Envelope Thermal Transmittance in Cold Climates

The 1989 edition has an explicit set of requirements for the building envelope (wall, roof, and fenestration) for cold climates with more than 15,000 heating degree days, base 65 degrees Fahrenheit. The 1999 edition addresses these cold climates in three bins, or groupings of ranges of degree days, that are slightly different from the 1989 edition. These three bins include criteria for buildings in climates with heating degree day, base 65 degrees Fahrenheit between 12,601 and 16,200 (bin 24), between 16,201 and 19,800 (bin 25) and more than 19,801 (bin 26). The envelope criteria vary with differences in construction (see Table 7). The U-factor requirements in the 1999 edition are generally less stringent. However, the only U.S. climate in the 1989 or 1999 edition's weather data that would fall under the ''cold climate'' requirements would be Barrow Alaska. Thus we expect any impact to be negligible because of the small amount of construction in Barrow and similar smaller cold climate communities.

TABLE 7.—DIFFERENCES IN BUILDING ENVELOPE THERMAL REQUIREMENTS IN COLD CLIMATES BETWEEN THE 1989 AND 1999 EDITIONS

Envelope element	1989 edition cold climate (>15,000 HDD65) requirements	1999 Edition bin 25 (16,201–19,800 HDD65) requirements
Opaque Wall	U–0.053 for large buildings U–0.040 for small buildings	U–0.045 to 0.071, depending on type of wall.
Fenestration	U–0.52 (for window to wall ratios of less than 0.2 for large buildings and 0.15 for small buildings).	U–0.43, for the corresponding WWR values.
Roof	U–0.024	U–0.027 to 0.049, depending on type of roof.
Floor Over Unconditioned Space	U–0.023	U–0.033 to 0.064, depending on type of floor.
Slab on Grade Insulation	R–15 for 48 inches	R–15, for 24 inches.
Skylight	Not allowed	U–0.95.

5. Skylight Thermal Transmittance and Solar Heat Gain

For buildings whose overall roof U-factor, including skylights, is less than the 1989 edition's requirements, no separate skylight requirements must be met. For buildings that cannot meet this requirement, the 1989 edition contains skylight thermal transmittance requirements that are a function of heating degree days, base 65 degrees Fahrenheit, as well as provides credit toward the overall roof U-factor requirement, where lighting controls are used to reduce lighting consumption. The 1999 edition has separate requirements for glass skylights with curbs, plastic skylights with curbs, and skylights without curbs, which vary by climate bin. The least stringent of these are for glass skylights with curbs. The 1999 edition provides no envelope credits for using lighting controls in conjunction with skylights. A comparison of the 1989 and 1999 editions' U-factor requirements is shown in Table 8. The original 1989 edition had U-factors based on center of window measurements. The 1999 edition has U-factors based on whole window measurements. We used U-factors based on whole window measurements which are incorporated in Addenda F to the 1989 edition, for an accurate comparison.

TABLE 8.—COMPARISON OF SKYLIGHT U-FACTOR REQUIREMENTS IN THE 1989 AND 1999 EDITIONS

Climates with:	1989 edition	1999 edition
HDD65 <8000	U–0.7	U–1.17 to 1.98 (glass).
HDD65 ≥8000	U–0.52	U–0.88 to 1.17 (glass).
Skylight curbs all climates	U–0.21	Included in U-factor for skylights with curbs.

Furthermore, the 1989 edition limits the maximum allowable percent of skylight area, based on skylight visible light transmittance, number of heating degree days, base 65 degrees Fahrenheit, number of cooling degree hours, base 80 degrees Fahrenheit, foot candle level, and interior lighting power density. The allowable percent of roof area in skylight ranges from about 2 percent to 12 percent for specific combinations. The 1999 edition limits skylights to 5 percent of roof area.

The 1989 edition is more stringent than the 1999 edition in terms of

required skylight U-factor. On the other hand, the total area of skylight that can be installed is less in the 1999 edition. In other words, the 1999 edition has greater restriction on the total roof area in skylights, but does allow skylights with a higher U-factor to be used. This essentially allows the user of the 1999 edition to put in a smaller amount of less efficient skylight than the 1989 edition.

The 1989 edition does not have any requirements for skylight solar heat gain. The 1999 edition does include specific solar heat gain coefficient requirements for skylights. Solar heat gain coefficient values for glass skylights range from 0.16 in very warm climates to ''No Requirement'' in very cold climates. Implicit in the1989 edition's thermal transmittance requirements, however, are SHGC values associated with the required glass. With required U-factors at 0.7 and 0.52 for skylights, skylights would have to be constructed with glazing similar to double pane and double low-emissivity glazing. Such construction would have solar heat gain coefficient values of 0.68 and 0.59. Using this logic, a comparison of skylight solar heat gain coefficient values is constructed in Table 9. Values are taken for five percent of the roof area in skylights, as this is the maximum prescriptive level in the 1999 edition. The upper range of solar heat gain coefficient values in the 1999 edition column is for cooler climates within each range.

TABLE 9.—COMPARISON OF SOLAR HEAT GAIN COEFFICIENTS IN THE 1989 AND 1999 EDITIONS

Climates with:	1989 edition SHGC	1999 edition SHGC
HDD65 ≤7,500	0.68	0.16 to 0.62.
HDD65 ≥7,500 <10,801	0.59	0.36 to 0.64.
HDD65 >10,801	0.59	No requirement.

The 1999 edition solar heat gain coefficient requirement is more stringent for virtually all locations in the US. The 1989 edition does have lower solar heat gain coefficient requirements in very cold climates, but since solar gain is a net benefit in these climates, restricting solar gain provides no benefit.

The lack of data on the amount of skylight in various parts of the country makes it inappropriate for us to reach a conclusion as to the net impacts of these changes.

6. Slab-On-Grade and Below Grade Wall Insulation

Slab-on-grade insulation requirements are nonexistent in both editions in warm climates. For cooler climates, the 1989 edition requires between R–7 and R–8 for vertical insulation, extended 24 inches deep, whereas there are effectively no requirements for slab insulation in the 1999 edition in the continental U.S. For heated slabs, the 1989 edition requires an additional insulation level of R–2, to that required for unheated slabs, in all cases. For below grade walls, the 1989 edition requires insulation levels from R–7 to R–16, for the first story below grade, depending on location. Whereas there are effectively no requirements for below grade wall insulation in the 1999 edition, until above 9,000 heating degree days, base 65 degrees Fahrenheit (much of Alaska and some northern Minnesota locations). The reduction of slab-on-grade and below grade wall insulation requirements in the 1999 edition will result in higher heating loads in cold climates, particularly for small buildings, resulting in more energy use. While a reduction in stringency, the impact of the removal of below grade or slab wall insulation is tempered by the insulating effect of the surrounding earth, relative to removing insulation from envelope components exposed to the air and sun (such as walls and roofs).

7. Roof Thermal Transmittance

We looked at roof thermal transmittance requirements first by estimating the building footprint area (assumed to approximate the roof area) by dividing the floor area by the number of floors for each building type. We then applied the Commercial Building Energy Consumption Survey statistical weights to each building type, to develop a table of the estimated roof area. This was done for each roof surface type classification for each of the 18 building use classifications in the 1992 Commercial Building Energy Consumption Survey. There are 17 Commercial Building Energy Consumption Survey roof surface classifications, which were aggregated into the three roof types in the 1999 standard as shown in Table 10, below. Where a significant fraction of a particular roof surface classification could be divided into one or more construction categories, estimates were made of the relative percentage in each category and are shown in parentheses in Table 10. Finally, the fraction of estimated roof area for each roof construction is shown for non-residential, semi-heated, and residential space types.

TABLE 10.—ESTIMATED ROOF AREA FRACTIONS BY 1999 EDITION ROOF CONSTRUCTION CATEGORY

1999 edition room construction	CBECS 1992 roof surface classifications	Estimated roof area fraction (in percent)		
		Non-residential	Semi-heated [a]	Residential [b]
Insulation Entirely Above Deck.	Built-up, Built-up & metal, Built-up & s/m ply, Composite, Foam/Styrofoam, Single/multiple ply (33%), Shingles & built-up (50%).	50.2	45.9	45.6
Metal Building	Metal/Rubber (80%), Metal Surfacing (80%), Single/multiple ply (33%).	16.5	32.9	4.9

TABLE 10.—ESTIMATED ROOF AREA FRACTIONS BY 1999 EDITION ROOF CONSTRUCTION CATEGORY—Continued

1999 edition room construction	CBECS 1992 roof surface classifications	Estimated roof area fraction (in percent)		
		Non-residential	Semi-heated [a]	Residential [b]
Attic and Other	Concrete Roof, Metal/Rubber (20&), Metal Surfacing (20%), Other (specify), Shingles & metal, Shingles & s/m ply, Shingles (not wood), Single/multiple ply (33%), Shingles & built-up (50%), Slate & shingles, Slate or tile, Wooden materials.	33.3	21.2	49.4

[a] Non-refrigerated warehouse assumed.
[b] Lodging buildings only.

Metal surfacing (about 13% of floor area) can be considered part of a metal building roof or a roof with metal joists (big box buildings such as Walmarts). The 80/20 split here allocates most of these surfaces to metal buildings which are the more prevalent class of new commercial construction. The shingles/slate, tile/wooden materials, are likely to be in place on roofs with attics or single rafter roofs, because they rely on roof pitch to shed water. The remaining categories cover a variety of combinations of materials, mainly synthetic/rubber surfaces. Some of these may be flat roofs, but they could be metal joists roofs or deck roofs. We allocated these evenly over the 1999 edition's roof construction categories.

The fractions of roof types estimated were used to weight the required U-factors from the 1999 edition for each climate and for each category of building, non-residential, semi-heated, and residential.

The results shown in Table 11 suggest that for most non-residential buildings, the 1999 edition has more stringent roof U-factor requirements in warm to mild climates (significantly so in Knoxville and Los Angeles, moderately so in Orlando, Seattle, and Shreveport, and slightly so in Fresno). It is slightly less stringent in the cooler climates of Denver, Detroit, and Providence, and is significantly less stringent in Minneapolis and Phoenix. Overall, we expect a slight increase in heating energy use and slight decrease in cooling energy use for most non-residential buildings from these requirements.

The semi-heated building category in the 1999 edition shows a substantial increase in average U-factor for all buildings, which is expected to result in increased energy use due to increased heating loads for these buildings.

A comparison of the requirements for the residential space category in the 1999 edition shows a reduction in U-factor (increase in stringency) for all climates except Los Angeles, which shows a substantial increase in U-factor (decrease in stringency).

Overall, it is expected that the changes in U-factor requirements in the 1999 edition will result in some increase in heating energy use, primarily as a result of the significant changes in requirements for semi-heated spaces. It is expected that it will also result in some decrease in cooling energy use in most (but not all climates).

TABLE 11.—AVERAGE ROOF U-FACTOR REQUIRED

City	1989 edition	1999 edition			Change 1989–1999 Non-res[1]
		Non-res	Semi-heated	Residential	
Denver	0.051	0.054	0.123	0.045	−0.003
Detroit	0.053	0.054	0.123	0.045	−0.001
Fresno	0.059	0.054	0.172	0.045	0.005
Knoxville	0.110	0.054	0.149	0.045	0.056
Los Angeles	0.100	0.070	0.202	0.200	0.030
Minneapolis	0.045	0.051	0.123	0.045	−0.006
Orlando	0.063	0.054	1.140	0.045	0.009
Phoenix	0.046	0.054	0.172	0.045	−0.008
Providence	0.053	0.054	0.123	0.045	−0.001
Seattle	0.064	0.054	0.149	0.049	0.010
Shreveport	0.066	0.054	0.172	0.045	0.012

[1] Negative U-factors indicate decreased stringency.

8. Floors Over Unconditioned Spaces

For each climate, the 1989 edition provides a single prescriptive U-factor for floors, while the 1999 edition provides nine possible U-factors (or R-values) depending on building type and floor type. The range of requirements for the 1999 edition addresses wood framed, steel framed, and mass (concrete) floor construction separately. Typically, wood framed floors have the lowest (most stringent) U-factor requirement, while mass floors have the highest (least stringent) U-factor. The 1999 edition is typically more stringent for wood framed and steel framed floors, and less stringent for mass floors in nonresidential (and residential) buildings. The 1999 edition is less stringent for semi-heated buildings. See Table 12.

TABLE 12.—COMPARISON OF FLOOR OVER UNCONDITIONED SPACE U-FACTOR CRITERIA IN THE 1989 AND 1999 EDITIONS

City	1989 edition all floors	1999 edition						1989–1999 difference		
		Non-residential			Semi-heated			Non-residential		
		Wood frame & other	Steel joists	Mass	Wood frame & other	Steel joists	Mass	Wood frame & other	Steel joists	Mass
Orlando	0.28	No requirement			No requirement			0.280		
Phoenix	0.19	0.051	0.052	0.137	No requirement			0.139	0.138	0.053
Los Angeles	0.17							0.119	0.118	0.033
Shreveport	0.11							0.059	0.058	−0.027
Fresno	0.10							0.049	0.048	0.037
Knoxville	0.074	0.051	0.052	0.107	0.660	0.069	0.322	0.023	0.022	−0.033
Seattle	0.056							0.050	0.004	−0.051
Denver	0.049	0.033	0.052	0.087	0.066	0.069	0.322	0.016	−0.003	−0.038
Detroit	0.048							0.015	−0.004	−0.039
Providence	0.048							0.015	−0.004	−0.039
Minneapolis	0.040							0.007	−0.012	−0.047

9. Opaque Wall Thermal Transmittance

The 1989 edition provides a single prescriptive U-factor for lightweight walls and a range of possible U-factors for mass walls (depending on thermal mass, percent fenestration, and internal load density), while the 1999 edition provides 12 possible U-factors (or R-values) depending on building type and wall construction. The maximum thermal transmittance requirements for mass walls in the 1999 edition generally fall within the range of allowable values in the 1989 edition, except for semi-heated buildings where in all cases the 1999 criteria are less stringent. However, since buildings in the semi-heated category are expected to have relatively low heating loads (due to the low internal temperature and limited heating capacity) and no cooling loads, the reduction in stringency is expected to have a minimal impact.

The difference in criteria for lightweight walls between the 1989 and 1999 editions varies, with some wall types being more stringent in some locations and other less stringent. In general, wood framed wall requirements in the 1999 edition are most likely to be more stringent than corresponding requirements in the 1989 edition.

To compare requirements for mass walls in the1989 edition, we used the Alternate Component Packages tables to determine U-factor requirements for 8 inch solid concrete and solid grouted concrete block mass walls (Heat Capacity > 15 Btu/ft\2\-F) as well as for 8 inch unfilled or insulated concrete block walls (10 Btu/ft\2\-F < Heat Capacity < 15 Btu/ft\2\-F). We did this for insulation on the inside of the wall; integral with the wall; and on the outside of the wall, under each of the three internal load density (ILD) ranges in the Alternate Component Packages tables. This was done for the 11 locations and for 18 percent and 38 percent window to wall area ratios. The requirements used were based on interpolation across the tabulated fenestration levels. For each internal load density range, we averaged together all calculated U-factor requirements. These results are shown in Table 13. In addition, we show the 1999 edition's U-factor requirements by that edition's three space-type categories (non-residential, residential, and semi-heated).

TABLE 13.—MASS WALL REQUIREMENTS COMPARISON

Location	1989 edition mass wall requirements			1999 edition mass wall requirements			U-Factor difference		
	Interior load density			Non-residential	Residential	Semi-heated	Non-residential	Non-residential [a]	Residential [b]
	Low	Medium	High						
ORL	0.624	0.649	0.636	0.58	0.151	0.58	−0.062	−0.473	−0.044
PHX	0.404	0.403	0.400	0.58	0.151	0.58	0.179	−0.253	0.176
LOS	0.737	0.791	0.793	0.58	0.151	0.58	−0.212	−0.586	−0.157
SHR	0.301	0.327	0.328	0.58	0.123	0.58	0.252	−0.178	0.279
FRS	0.293	0.307	0.311	0.58	0.151	0.58	0.271	−0.142	0.287
KNX	0.166	0.185	0.188	0.151	0.104	0.58	−0.036	−0.062	0.414
SEA	0.123	0.140	0.147	0.151	0.104	0.58	0.007	−0.019	0.458
DET	0.100	0.107	0.109	0.123	0.09	0.58	0.015	−0.010	0.480
DEN	0.131	0.144	0.144	0.123	0.09	0.58	−0.021	−0.041	0.449
PRV	0.100	0.107	0.109	0.123	0.09	0.58	0.015	−0.010	0.480
MNP	0.078	0.087	0.088	0.104	0.09	0.58	0.017	0.012	0.502

[a] Non-Residential versus average of Medium and High Interior Load Density cases.

[b] Residential versus Low Interior Load Density case.
[c] Semi-heated versus Low Interior Load Density case.

The difference in required U-factors for typical buildings is also shown in Table 13. For this comparison, we have assumed that most non-residential buildings in the 1999 edition would fall into either the medium or high interior load density ranges of the 1989 edition. The average U-factor for both of these interior load density ranges was used in the comparison. Most residential buildings would fall into the low interior load density range of the 1989 edition. Most semi-heated building spaces (assumed to be similar to warehouse buildings) would likely fall under the low interior load density range of the 1989 edition. As can be seen from the table, the requirements of the 1999 edition are more stringent for residential buildings, in almost all climates. This is particularly so in moderate to warm climates. The 1999 edition is considerably less stringent for semi-heated buildings in all but Orlando and Los Angeles, where heating losses are not expected to be significant. The 1999 edition is generally less stringent for non-residential construction in moderate to warm climates and slightly less stringent for cool or cold climates. Overall, it is expected that the reduced U-factor requirements for mass walls in the non-residential and semi-heated category will result in increased heating energy use over the 90.1–1989 mass wall requirements.

10. Window Thermal Transmittance and Solar Heat Gain

The 1989 edition does not specifically provide a prescriptive approach to window thermal transmittance or solar heat gain, but rather treats windows as a component of the building wall, where the wall must have certain overall heating and cooling performance to show compliance. However, the ACP (Alternate Component Packages) tables, which set out prescriptive requirements for the building envelope, provide tables of maximum percentage of wall glazing as a function of window U-factor, shading coefficient, projection factor, and building internal gains. The 1999 edition, by contrast, provides prescriptive U-factor requirements and Solar Heat Gain Coefficient requirements for particular combinations of percentage of glazing and building category (non-residential, residential, semi-heated), simplifying use and enforcement. Both editions require the use of an energy tradeoff methodology for buildings with very high percentages of window area (typically greater than 50 percent).

For our analysis, we assumed the mid-internal gain range of the ACP tables (1.51–3.00 W/ft^2) as being typical of the non-residential building loads, and the low-internal gain range of the ACP tables (0.0–1.5 W/ft^2) as being typical of semi-heated buildings such as warehouses. For residential space types such as hotels and hospitals, we assumed either low-or mid-internal gain ranges of the ACP tables could be appropriate in the 1989 edition. For multi-family high rise buildings we assumed low-internal gain ranges.

For these typical levels of internal gains, the requirements for window thermal transmittance in residential and non-residential buildings are very similar in both editions. The 1989 edition is somewhat more stringent in cold climates in buildings with a high percentage of glazing. The 1999 edition is marginally more stringent in the rest of the country. For semi-heated buildings, the requirements in the 1999 edition are less stringent, except for in warm climates where both editions require single pane glass.

Window solar heat gain requirements in the 1999 edition are typically more stringent in buildings with lower glazing areas (less than 30 percent), but often less stringent in buildings with higher glazing areas (38 percent or 45 percent). Maximum solar heat gain requirements do not exist for semi-heated buildings in the 1999 edition. However, limiting solar heat gain does not reduce energy use for a building that is only heated.

For windows with northern orientations, the 1999 edition generally allows greater solar heat gain per window area than the 1989 edition. A review of six of the seven building types (not including warehouse buildings which are commonly semiheated buildings) in the quantitative analysis suggested that approximately 73% of the floor area of these buildings would be in buildings with glazing fractions of less than 30%. This suggests that overall, the 1999 edition is more energy efficient in reducing solar heat gain in most buildings. It is somewhat less efficient with regard to window thermal transmittance, particularly in cold climates.

11. Opaque Doors

The 1999 edition contains explicit U-factor requirements for both swinging and non-swinging doors, with requirements ranging from a U-factor of 0.5 (for both door types in cold climates) to 1.45 for uninsulated doors of both types. An insulated metal door or a solid wood door requires a U-factor of 0.5. Glass doors that are more than one-half glass are considered to be equivalent to vertical fenestration and would need to meet vertical glazing requirements. The 1989 edition does not explicitly deal with either opaque or glazed doors, but instead treats them as part of the overall wall requirement. Opaque doors are part of the opaque wall, glass doors are part of the glazed area. Since the required thermal performance of opaque doors in the 1999 edition is generally worse than that of the surrounding opaque wall area, and the opaque door requirements are included in the overall wall requirements of the 1989 edition, the requirements of the 1999 edition are less stringent. Doors represent a small percentage of the wall area of multistory buildings. They also represent a fairly small percentage of the wall area of many large single story buildings. Most commercial entrance doors are glazed, reducing the impact of the difference in opaque door requirements. We therefore conclude that the energy impact of this change is likely to be small for most buildings. However, in individual buildings with a significant number of doors, such as some warehouses, the impact may be significant.

C. Mechanical Equipment and Systems

1. Load Calculations and Sizing

The 1999 edition has no explicit sizing requirements for heating ventilation and air-conditioning systems. The1989 edition requires the use of a computational procedure for load calculations, and it details selection of indoor and outdoor design temperature, the use of Standard 62–89 for minimum ventilation, and a selection of allowed sources for internal gain data. The 1989 edition also explicitly allows a ten percent safety factor for steady-state design loads and additional 30 percent and ten percent multipliers beyond that to account for heating and cooling pick-up loads. However, these additional parameters represent typical values or sources for sizing calculation data. The omission of explicit sizing requirements for heating ventilation and air-conditioning systems, while unlikely to have much impact on large commercial buildings, which are typically designed by

engineering professionals, could have a significant impact on smaller commercial buildings, especially design-build facilities. The inclusion of explicit maximum safety factors in the 1989 standard recognizes the tendency for much larger values to be used by system designers. The exclusion of such factors in the 1999 standard has the potential for significantly oversizing equipment, resulting in operating inefficiency.

2. Separate Air Distribution Systems

The 1989 edition requires that zones with special process, temperature, and/or humidity requirements, either be served by air distribution systems separate from those used to satisfy zones conditioned for comfort only, or have provisions to allow control for comfort conditioning only. An exception to this allows up to 25 percent of the air flow serving primarily process systems to be directed for comfort cooling only needs with no system design modification. This exception might be used for office space in an industrial facility. This requirement provides the ability to operate the primary heating ventilation and air-conditioning systems for comfort conditioning only when processes are not operating. The 1999 edition has no requirements explicitly for systems and equipment used for process applications. However, where systems would also serve spaces conditioned for comfort only, the equipment and system requirements of the 1999 edition would apply. In particular, requirements referring to zone isolation, dehumidification, and simultaneous heating and cooling would address most of the issues addressed by the separate air distribution system requirement in the 1989 edition. This will result in a minor reduction in stringency in a limited number of buildings.

3. Temperature Controls

The 1999 edition has an additional requirement that all zone and loop controllers shall incorporate control error correction. In addition, it explicitly requires a set point overlap restriction when the heating and cooling to a zone are controlled by separate thermostats within that zone. In the 1989 edition, it is not clear whether individual thermostats are required that control both heating and cooling to a 5 degree Fahrenheit deadband, or whether it means that the space should be controlled to provide a 5 degree Fahrenheit deadband. The additional requirements make the 1999 edition clearer as to the requirements and better at controlling room temperature and will limit reheating and recooling done by separate systems, which will provide improved efficiency over the 1989 edition.

4. Off-Hour Controls and Setback

The 1999 edition requirements for off-hour controls are limited to systems with heating or cooling capacity greater than 65,000 Btu per hour and fan system power greater than ¾ horsepower. The requirement for off-hour controls in the 1989 edition are for systems greater than two kilowatts. Exceptions are also made for heating ventilation and air-conditioning systems serving hotel or motel guest rooms. In these cases the 1999 edition is less stringent. However, the optimum start controls required in the 1999 edition for large systems, should reduce the number of hours needed to bring the building to operating temperature.

The 1989 edition allows either independent shut-off controls or setback controls to reduce heating and cooling to the zone. The 1999 edition requires automatic shutoff controls for the supply of conditioned air, outside air, and exhaust air to each independent isolation area, as well as automatic shutdown controls. However, it specifically allows substitution of a system air flow reduction in the non-occupied zones, but limits the total volume of air to those zones to 14 percent of the system airflow. The 1999 edition, by requiring maximum setback air volumes, has explicit, and therefore more stringent, off-hour requirements. These would be achieved by simple thermostat setback. Both editions incorporate different exceptions to these off-hour requirements for multi-zone systems. Our limited data on commercial building multi-zone systems and operating schedules is insufficient to evaluate these exceptions.

5. Dampers

The 1999 edition requires motorized dampers in stair and elevator shafts and in all outdoor air supply exhaust hoods, vents, and ventilators. Gravity dampers are acceptable on buildings less than three stories and of any height in buildings in climates with less than 2,700 heating degree days, base 65 degrees Fahrenheit. These damper performance requirements are more stringent than similar requirements in the 1989 edition. However, the requirements in the 1999 edition pertain to fewer systems (only to systems larger than 65,000 Btu per hour). The 1989 edition requires dampers (motorized or gravity) or other means of volume shut-off or reduction. It exempts supply and exhaust systems less than or equal to 3,000 cubic feet per minute, in warm climates (less than or equal to 3,000 heating degree days, base 65 degrees Fahrenheit). Overall, the 1999 edition is considerably more stringent for large systems, but is less stringent for small systems in climates above 3,000 heating degree days, base 65 degrees Fahrenheit.

6. Humidity Control

The 1989 edition had a requirement that any humidity control device (humidistat) be capable of limiting the use of fossil fuel or electric energy to provide relative humidities of greater than 30 percent or less than 60 percent. This range limit setpoint requirement for zone humidification is not included in the 1999 edition. Instead a requirement for having the capability to prevent simultaneous humidification or dehumidification was added, with an exception for zones with tight humidity requirements, approved by local authorities, or for desiccant systems used in series with evaporative cooling. Minimum impact is expected from this change as both editions effectively require systems with both humidification and dehumidification to have the controls to limit possible waste of energy that would result from simultaneous humidification and dehumidification.

7. Radiant Heating

The title, purpose, and scope of the 1989 edition do not include unenclosed spaces, and has no requirements for heating such spaces. Hence, warm air heating systems may be used. By specifically including such spaces as loading docks without air curtains in the 1999 edition's title, purpose, and scope, and requiring radiant heating systems (excluding warm air systems), energy will be saved by requiring more efficient systems for that application.

8. Ventilation

The 1989 edition requires ventilation systems be designed capable of providing the ventilation levels prescribed in Standard 62–1989. The 1989 edition did not set the ventilation rate, but rather specified a minimum operational ventilation rate the system must be designed to provide. Operation of a system at higher or lower ventilation rates is allowed under the 1989 edition. The 1999 edition omits these requirements. No savings or loss in efficiency should occur from this specific change.

Further, the new requirements in the 1999 edition for automatic ventilation controls for high occupancy areas make the 1999 edition more stringent than the

1989 edition and should provide some energy savings.

9. Pipe and Duct Insulation

The 1999 edition has slightly less stringent pipe insulation requirements than the 1989 edition for most building applications. The 1999 edition does not require insulation of piping unions in heating systems or hot water piping between the shutoff valve and coil (up to 4 feet of pipe), in conditioned spaces. It requires more insulation on higher temperature (> 250 F) piping, and less insulation on lower temperature heating system and service hot water piping. In contrast, the 1989 edition requires more insulation on low temperature cooling system piping. Overall, there appears to be some small reduction in insulation requirements. However, since the piping is insulated under both standards, the incremental reduction in insulation is expected to have minimal impact.

The 1999 edition has significantly less stringent duct insulation requirements for some categories of ducts than the 1989 edition. For cooling only ducts, the 1999 edition requires generally lower insulation levels for ducts located outside the building, and insulation levels at or lower than required in the 1989 edition for most spaces inside the building. The 1999 edition, generally requires higher insulation levels for ventilated attics and for unvented attics with non-insulated attic decks, which can be high temperature areas of the building. It requires no insulation for indirectly conditioned spaces including return air plenums.

For heating only ducts, the 1999 edition requires somewhat less insulation on exterior heating ducts, except in the most extreme heating climates, where it requires more than the 1989 edition. It requires very little insulation on heating-only ductwork located inside the building envelope.

For return ducts located exterior to the building, the 1999 edition requires lower insulation levels than the 1989 edition. The lower duct insulation requirements are likely to be most significant for heating-only ducts in climates where insulation is not required for particular attics or unconditioned spaces. The reduction in the minimum insulation level for cooling only ductwork is significant for central systems that rely on year round cooling availability (such as variable air volume or dual duct systems). Both insulation reductions will decrease energy efficiency of the 1999 edition.

Finally, the 1999 edition does not restrict the use of pressure sensitive tape at seal level C for supply pressures up to 2 inches of pressure, whereas the 1989 edition restricts its use for seal class C above 1 inch. Research is ongoing regarding the impact of this, however, we believe that there is a potential reduction in energy efficiency with the 1999 edition.

10. Heat Recovery

New requirements in the 1999 edition for exhaust air heat recovery for systems of 5,000 cubic feet per minute or greater with 70 percent or greater outside air, will have significant positive impact on energy efficiency in heating ventilation and air-conditioning systems with high outside air requirements. However, the number of buildings that have these systems and that are exempted is significant.

Requirements have also been added that condenser heat recovery be used to provide heating of service hot water for buildings with a combination of continuous operation, high water heating loads (greater than 1,000,000 Btu per hour) and high cooling loads (approximately 400 tons). Primary examples are large hotel facilities. These requirements significantly increase efficiency, but in a relatively small percentage of buildings.

11. Completion Requirements

Both editions have requirements for testing and balancing of heating ventilation and air-conditioning equipment. The 1999 edition requires a written balancing report for zones more than 5,000 square feet in area, as well as requires the ability to measure differential pressure across pumps greater than 10 horsepower in size. For buildings larger than 50,000 square feet conditioned area, detailed commissioning instructions for heating ventilation and air-conditioning systems are required to be provided by the designer in plans and specifications. An exception to this requirement is made for warehouses and semi heated spaces. The more detailed and extensive documentation requirements have the potential to provide long-term energy efficiency beyond what would be expected under the minimum completion requirements of the 1989 edition.

12. Simultaneous Heating and Cooling Controls

The 1989 and 1999 editions have essentially identical text requiring that zone thermostatic and humidistatic controls shall be capable of operating the supply of heating and cooling energy in sequence to prevent reheating, recooling, or mixing of previously heated and cooled air, or other simultaneous operation of heating and cooling systems in the same zone. Similarly, exceptions are provided for both editions regarding: (1) Zones with special pressurization or cross-contamination requirements; (2) zones where at least 75 percent of the reheat energy is provided from a site-recovered or site-solar source; and (3) where the reheated volume of supply air to a zone is no greater than the maximum of several defined limits. However, the 1999 standard provides much more detail regarding the possible characterization of the circumstances under which these exceptions would apply. In the third category, the 1999 edition changes the stipulations to limit the use of most of these maximum-reheated-air exceptions. These changes should result in a reduction in building energy use for many common multi-zone heating ventilation and air-conditioning system designs.

13. Economizer Controls

The 1999 edition requires economizers in fewer locations than the 1989 edition, but requires them in the locations of the country where they are expected to be most beneficial. The 1989 edition requires economizers on 7.5 ton or larger equipment in climates where economizers are required. The 1999 edition uses a sliding scale of economizer requirements. These requirements depend on climate and system size. They range from 65,000 Btu per hour equipment in climates where economizers are most effective to 135,000 Btu per hour where economizers are least effective. In addition, the 1999 edition requires air economizers to be capable of providing 100 percent of the design supply air quantity, versus only 85 percent in the 1989 edition. In addition, the 1999 edition specifies: (1) Allowed economizer control types to maximize economizer savings in specific climates, (2) leakage rates for outside air dampers, and (3) that economizer dampers in multi-zone systems be capable of being sequenced with the mechanical cooling equipment and not be controlled by only mixed air temperature. In general, the 1999 edition attempts to provide more economizer savings where economizers are most beneficial.

14. Fan System Design Criteria

Both editions will result in similar fan power efficiencies. However, the 1999 edition requires the efficiencies be included on motor nameplates, in order to make them more easily inspected. In addition, the 1999 edition places these requirements on fan motors of five horsepower and above, whereas the 1989 edition places requirements on

motors that are ten horsepower and above. The 1999 edition also has more stringent unloading requirements for variable air volume fans. The 1999 edition places those requirements on variable air volume systems of 30 horsepower and above, as compared to variable air volume systems of 75 horsepower and above, as specified in the 1989 edition. Both the constant volume and variable volume fan power requirements will be extended to far more system types in the 1999 edition. Overall, there is expected to be a reduction in allowed fan power use in the 1999 edition, particularly for multi-zone systems.

15. Pumping System Design

Both editions require that pumping systems designed for variable flow be designed to allow flow variation down to 50 percent of design flow rates. The 1999 edition also has a requirement that, for systems with more than 100 feet of pumping head and motors greater than 50 horsepower power, consumption at 50 percent flow, be no more than 30 percent of design flow. This will effectively require variable speed pump drives on these large pumping systems. Exceptions are made for pumps less than 75 horsepower where reduction of flow would be below the minimum flow requirements for heating ventilation and air-conditioning equipment and for systems that include no more than three control valves. Significant energy savings will result from application of the 1999 edition in larger pumping systems due to these part-load performance requirements.

16. Temperature Reset Controls

The 1989 edition requires system temperature reset controls on both multi-zone air systems and large, non-variable-flow hedonic systems. These controls shall be capable of providing a reset of at least 25 percent of the design supply to room air temperature difference, with some exceptions, most notably for low zone flow rates or for systems not capable of providing reheat. The primary purpose of this requirement is to reduce reheat in air systems. Supply water temperatures must also be capable of a reset equivalent to 25 percent of the design supply-to-return water temperature difference. This requirement does not apply to hydronic systems that can provide a 50 percent reduction in system flow, or are less than 600,000 Btu per hour in capacity. Nor does it apply to reset controls that would cause improper operation of heating, cooling, humidification, or dehumidification systems.

The 1999 edition requires reset on chilled and hot water temperature controls used for heating ventilation and air-conditioning systems more than 300,000 Btu per hour design capacity. Direct energy savings are expected from the reset of the supply water temperature from chiller and boiler, and the air supply temperatures in the system are assumed to follow the water temperature reset. An exception is made for hydronic systems that use variable flow to reduce pumping energy, or for systems where reset would cause improper operation of heating, cooling, humidification or dehumidification systems. Overall, there is little net change in the reset requirements for hydronic systems other than the 1999 edition applying them to more systems.

The 1999 edition removes the air supply reset requirements, while directly addressing simultaneous heating and cooling. This is addressed by better limiting the amount of air reheated or recooled and is set forth in a new section of the standard (see Simultaneous Heating and Cooling Controls above). Some minimal degradation in efficiency is expected from removal of the supply air reset requirements, but this is likely to be mitigated by the increase in efficiency from requiring reset on smaller hydronic systems.

17. Hot Gas Bypass Restriction

The 1999 edition introduces a new requirement that restricts the use of hot gas bypass in cooling equipment unless the equipment is designed with multiple steps of unloading. In the latter case, hot gas bypass is allowed, but maximum hot gas bypass levels are specified as a fraction of total capacity for different sizes of cooling equipment. This requirement will provide an improvement in part-load performance for cooling equipment, where manufacturers are not already incorporating multiple steps of unloading.

18. Heating Ventilation and Air-Conditioning Equipment

The 1999 edition provides updated equipment efficiency requirements with an effective date of October 29, 2001. Tables 6.2.1A–6.2.1G of the 1999 edition show the existing 1989 edition's heating ventilation and air-conditioning equipment efficiency requirements (shown in the ''minimum efficiency'' column) with the 1999 edition's update requirements shown in the ''Efficiency as of October 29, 2001'' column in each table across heating and cooling product categories. Where the 1999 edition has equipment efficiency requirements but the 1989 edition does not (as is the case with absorption and heat rejection equipment for example) increased energy efficiency occurs unless the requirements are set at or below common practice. In these cases, we used ASHRAE's assessment of the minimum performance of the equipment used in common practice as a baseline. A summary of the shipped capacity weighted efficiency improvements across generic product categories is shown in Table 14.

TABLE 14.—SHIPPED CAPACITY WEIGHTED EFFICIENCY IMPROVEMENT ACROSS GENERIC PRODUCT CATEGORIES, INCLUDING EQUIPMENT SHIPMENTS TO COMMERCIAL BUILDINGS COVERED BY FEDERAL MANUFACTURING STANDARDS

Equipment category	Estimated full load efficiency improvement (in percent)
Unitary Air Conditioners and Condensing Units	7
Unitary and Applied Heat Pumps	9.2
Electrically Operated Water Chillers	16.8
Absorption Chillers	5.2+
Packaged Terminal Air Conditioners and Heat Pumps	22.4
Room Air Conditioners	10.1
Furnaces, Duct Furnaces, Unit Heaters	0+
Boilers	0

The absorption chillers 5.2 percent estimated full load efficiency improvement is based on double effect chillers. The 1989 edition had no efficiency requirement for absorption chiller equipment. Based on an industry derived market baseline for double effect chillers provided during the development of the 1999 edition, the 1989 edition's performance coefficient is 0.95. Therefore, selection of the 1999 edition's coefficient of performance of 1.0 will provide improved efficiency. Improvements of up to 25 percent above market minimums are estimated for single effect equipment.

The full load efficiency improvement in room air-conditioners in the 1999 edition were adopted from the Department's manufacturing standard requirements, effective October 1, 2000 (10 CFR 430). These efficiency improvements cannot be attributed to the improved requirements of the 1999 edition.

For furnaces, duct furnaces, and unit heaters, changes were made to test procedures and efficiency descriptors for unit heaters, but no net change was

made in efficiency in the 1999 edition. Improved prescriptive requirements in the 1999 edition for warm-air furnaces such as requirements for intermittent ignition or interrupted device and jacket loss limits, will improve annual efficiency.

For boilers, the full load thermal efficiency descriptor was improved in the 1999 edition, but not the boiler efficiency requirements. The 1999 edition's requirements for thermal efficiency will remove some boilers from the market that currently meet the single 80 percent combustion efficiency requirement in the 1989 edition, and have thermal efficiencies of less than 75 percent. This is particularly true of steam boilers.

In addition to providing updated efficiency requirements for most commercial equipment, the 1999 edition subdivides several of the original 1989 edition product categories and adds new efficiency requirements for heat rejection equipment that were not covered under the 1989 edition. The 1999 edition provides coefficient of performance and integrated part-load value requirements for centrifugal chillers operating at other than nominal test conditions. It also expresses efficiency requirements, for boilers less than or equal to 2.5 million Btu per hour input rating, using true thermal efficiency, as opposed to combustion efficiency requirements in the 1989 edition. The 1999 edition provides separate efficiency requirements for packaged terminal air conditioner and packaged terminal heat pump equipment. The 1999 edition also updates efficiency requirements to reflect changing test procedures and mandates the use of either intermittent or interrupted ignition devices and power venting or flue dampers on forced air furnaces. Finally, the 1999 edition restricts jacket losses on gas and electric furnaces located outside the conditioned space.

The 1999 edition provides significant improvement to cooling equipment efficiencies, and minor increases in average oil or gas space heating equipment efficiency due to a change in either efficiency designator or shell loss requirements. It also provides for a moderate increase in heat pump heating side efficiency. All of these requirements (except for room air-conditioners) will improve the general efficiency of commercial space conditioning products beyond that required in the 1989 edition and will thus contribute to energy savings with the 1999 edition.

19. Service Water Heating Equipment Efficiency

The 1999 edition sets service water heating (SWH) equipment efficiencies for gas and oil fired equipment at, or moderately higher than, the 1989 edition levels. It improves thermal efficiencies from two to three percentage points for gas water heaters with integral storage, and improves thermal efficiencies one percent for oil fired instantaneous water heaters with integral storage, as well as for the similarly defined category of ''hot water supply boiler.''

For the 1999 edition, the general form of the equations for standby loss for oil and gas water heaters were slightly modified and rewritten to include a fuel input rating variable and the definition of the volume in the equation. In the 1989 edition, the standby loss was purely a function of volume. With the modification in the 1999 edition of the standby loss equation, standby loss is now a function of both volume and input rating. For gas and oil water heaters, the stringencies of each standard are roughly the same within each of the individual product categories. This allows somewhat more standby loss for large input rating products and allows somewhat less standby loss for smaller input rating products. Without very detailed information about the shipped quantity of products within a size category, it is unknown whether there is a net change in efficiency. For electric water heaters greater than 12 kilowatt input, the 1999 edition does appear to allow marginally greater standby loss, as the formula is based on rated as opposed to measured volume. This allows a ten percent variation between the rated and measured volume. However, since this product is covered by a Federal national manufacturing standard that is more stringent than the requirements of the 1999 edition and the federal standard preempts state or local regulation, the reduced stringency in the 1999 will not reduce energy efficiency.

20. Service Water Heating Controls

Both the 1989 and 1999 edition have requirements for a minimum service hot water temperature control capability set point, as well as a maximum control temperature requirement for public restrooms of 110 degrees Fahrenheit. Since these are only capability and not set point requirements, no change in net building energy use is expected or assured. The 1989 edition also has a requirement that booster heaters be installed where outlet temperatures of more than 120 degrees Fahrenheit were required, which is absent in the 1999 edition. The energy impact of dropping this requirement is highly dependent on the fuel source used by the booster heater. Generally, a slight increase in site energy use in specific applications might be expected, however, there may also be a corollary reduction in source energy use occurring from the reduced use of electric booster heaters (a cheap first cost alternative to meeting the 1989 edition requirement). The net impact on hot water energy use is expected to be minimal.

D. Energy Cost Budget

For both editions, the Energy Cost Budget section provides a whole-building tradeoff methodology to allow innovative or unique buildings to comply with the standard. The Energy Cost Budget section requires the designer to simulate both a baseline building that complies with the standard and the actual design being proposed. The design building is not allowed to have a greater energy cost than the baseline building that complies with the standard. Neither edition of the standard allows designs to exceed the base standard, and as such, the stringency of the Energy Cost Budget method in each edition is roughly equivalent to the stringency that would be achieved if the building complied with the prescriptive requirements of the respective editions of the standard.

E. Conclusion About Detailed Textual Analysis

Our assessment of seven areas of change in the Lighting and Power sections of the two editions leads us to conclude that there will be a net positive increase of efficiency in commercial buildings from these revisions. Conversely, our assessment of the eleven areas of change in the Envelope section of the two editions leads us to conclude that there will be a net decrease in efficiency of commercial buildings due to these changes. Finally, our review of the 22 areas of change in the Mechanical Equipment and Systems sections of the two editions leads us to conclude that these revisions will produce a net positive increase in the efficiency of commercial buildings.

We therefore conclude from our detailed textual analysis that there will be a modest net gain from the changes.

IV. Filing Certification Statements with DOE

A. Review and Update

On the basis of today's DOE determination, each State is required to

review and update the provisions of its commercial building code to meet or exceed the provisions of the 1999 edition for any ''building'' within the meaning of Section 303(2) of the Energy Conservation and Production Act, as amended. This action must be taken not later than two years from the date of today's notice, unless an extension is provided. Section 304(b)(2)(B)(i) and (c).

The Department recognizes that some States do not have a State commercial building code or have a code that does not apply to all commercial buildings. If local building codes regulate commercial building design and construction rather than a State code, the State must provide for review and update of those local codes to meet or exceed the 1999 edition. States may base their certifications on reasonable actions by units of general purpose local government. Each such State must still review the information obtained from the local governments and gather any additional data and testimony for its own certification.

States should be aware that the Department considers high-rise (greater than three stories) multi-family residential buildings and hotel, motel, and other transient residential building types of any height as commercial buildings for energy code purposes. Consequently, commercial buildings, for the purposes of certification, would include high-rise (greater than three stories) multi-family residential buildings and hotel, motel, and other transient residential building types of any height.

B. Certification

Section 304(b) of ECPA requires each State to certify to the Secretary of Energy that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency to meet or exceed the 1999 edition. The certification must include a demonstration that the provisions of its commercial building energy code regarding energy efficiency, meet or exceed Standard 90–1999 for any ''building'' within the meaning of Section 303(2) of the Energy Conservation and Production Act, as amended. If a State intends to certify that its commercial building code already meets or exceeds the requirements of the 1999 edition, it would be appropriate for the State to provide an explanation of the basis for this certification, e.g., the 1999 edition is incorporated by reference in the State's building code regulations. The Department believes that it would be appropriate for the chief executive of the State (e.g., the Governor) to designate a State official, such as the Director of the State energy office, State code commission, utility commission, or equivalent State agency having primary responsibility for commercial building codes, to provide the certification to the Secretary. Such a designated State official could also provide the certifications regarding the codes of units of general purpose local government based on information provided by responsible local officials.

C. Request for Extensions

Section 304(c) of ECPA requires that the Secretary permit an extension of the deadline for complying with the certification requirements described above if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress toward meeting its certification obligations. Such demonstrations could include one or more of the following: (1) A plan for response to the requirements stated in section 304; or (2) a statement that the State has appropriated or requested funds (within State funding procedures) to implement a plan that would respond to the requirements of section 304.

D. Submittals

When submitting any certification documents in response to this notice, the Department requests that the original documents be accompanied by one copy of the same.

Issued in Washington, DC, on July 8, 2002.

David K. Garman,

Assistant Secretary for Energy Efficiency and Renewable Energy.

Appendix A. Description of Proposed Analysis

At the February workshop we explained that the proposed analysis would provide qualitative comparisons of the stringencies between the two editions of Standard 90.1 in: (1) The scope of the standard; (2) the building envelope requirements; (3) the building lighting requirements; (4) the building mechanical equipment requirements; and (5) the paths to compliance.

We stated that the proposed emphasis of the qualitative comparison would differ between the envelope, lighting, and mechanical sections. In the building envelope section, the comparison would focus on the impact of the different building envelope requirements on the building heating and cooling loads for different building types and climates. The envelope comparison would examine requirements for all envelope components, including roofs, walls, floors, and fenestration as well as explore variations in construction types and in the window-to-wall ratio.

In the lighting requirements comparison, we explained that the proposed focus would be primarily on the impact the different lighting requirements have on lighting energy use, as well as on building loads. The comparison would look separately at the whole building and space-by-space lighting requirements in a variety of commercial building types, as well as examine the effect of any ''additional lighting power allowances.''

We proposed that the mechanical requirements comparison be divided into comparisons of equipment efficiency requirements and system design requirements. We explained that the system design requirements affect both the system efficiency and system load impacts, and may have direct energy impacts as well. We also proposed that tables of relative stringency and estimated positive or negative national energy impact be prepared based on practical application of the system design requirements in each standard.

We explained that each standard has multiple ways to demonstrate compliance. We proposed to enumerate the multiple paths to compliance, but did not propose to perform a detailed comparison of the relative stringency of alternate paths internal to a single standard or between standards. We explained that the large quantity of variables among the alternative compliance paths would make such analysis prohibitive to undertake. Further, we explained that we knew of no data on which to base the selection of representative requirements for such an analysis. Assignment of requirements would be arbitrary. Rather we proposed to focus on what we believed is the most common approach to using the standard in question for particular building types.

Addressing the quantitative analysis, we proposed to base the quantitative comparison of energy codes on whole building energy simulations of buildings built to each standard. We proposed to simulate seven representative building types in 11 representative U.S. climates. The simulated buildings would utilize the 15 zone building prototypes used in previous DOE building research, and the energy use intensities for each zone from the simulations would be scaled to correctly reflect variations in characteristic building sizes and shapes for each representative building type. Energy Use Intensities (EUIs) developed for each representative building type would be weighted by total national square footage in each representative building category to provide an estimate of the national energy savings.

We noted that only changes to requirements for new buildings would be considered in this quantitative analysis.

Appendix B. Description of the Quantitative Analysis

The analysis methodology is briefly described below. This is followed by a description of the input assumptions.

I. Analysis Methodology

To determine the aggregate impact of changes to the envelope, lighting, and mechanical sections of 90.1, a series of building simulations were made using the BLAST (Building Loads Analysis and System Thermodynamics) building simulation

software. Seven building types, shown in Table 15, were used in the analysis. These seven building types used represent approximately 80 percent of commercial building energy consumption, according to the Energy Information Administration's 1995 Commercial Building Energy Consumption Survey (CBECS95) data. (The Office building type includes Outpatient Health Care at 76.6 thousand Btu per year.)

TABLE 15.—ENERGY CONSUMPTION BY PRINCIPAL BUILDING ACTIVITY (TRILLION BTU)

Building types simulated	Annual energy use	Percent of total
Office	1,095	20.6
Mercantile and Service	973	18.3
Education	614	11.5
Lodging	461	8.7
Public Assembly	449	8.4
Food Service	332	6.2
Warehouse and Storage	325	6.1
Total for above Categories	4,249	.....
Total for all commercial buildings	5,323	79.8

Construction variation within each building category was simulated using four different window to wall area ratios, both mass (such as dense masonry) and light frame wall construction types, and gas and electric heating fuel types. Two scenarios of economizer usage were simulated in each climate to account for the variation of economizer usage requirements in combination with equipment size. The buildings were simulated in 11 different climate locations (Table 16). The climate locations were chosen based on statistical cluster analysis of 234 Typical Mean Year weather data tapes and were chosen to be representative of the variation in climate found in the U.S. Several of the more significant climate parameters are shown in Table 16. These include, Heating Degree Days, base 65 degrees Fahrenheit (HDD 65); Vertical Solar radiation, in the North (VSN), East/West (VSEW), and South (VSS) orientations; Cooling Degree Day, base 50 degrees Fahrenheit (CDD 50); minimum recorded outdoor temperatures for 99.6 percent of the time for heating design calculations; maximum recorded Dry Bulb (DB) outdoor temperatures exceeded 1 percent of the time for cooling design calculations; and maximum recorded Wet Bulb (WB) outdoor temperatures exceeded one percent of the time, also for cooling design calculations.

TABLE 16.—CLIMATES LOCATIONS USED

Location	HDD 65	VSN	VSEW	VSS	CDD 50	Heating design 99.6	Cooling design (1% DB)	Cooling design 1% WB)
Denver, CO	6083	428	971	1321	2611	−3	90	59
Detroit, MI	5997	390	676	858	3199	0	87	72
Fresno, CA	2700	459	1029	1199	5070	30	101	70
Knoxville, TN	3818	446	762	898	4455	13	90	74
Los Angeles, CA	1494	482	962	1146	4456	43	81	64
Minneapolis, MN	8060	380	709	972	2751	−16	88	71
Orlando, FL	532	511	881	974	8288	37	93	76
Phoenix, AZ	1382	488	1116	1310	7830	34	108	70
Providence, RI	6022	393	677	874	2756	5	86	71
Seattle, WA	5281	350	621	828	1683	23	81	64
Shreveport, LA	2265	484	843	954	6022	22	95	77
Tampa, FL	575	518	890	974	7985	36	91	77

In addition to simulating buildings that complied with the 1989 and 1999 editions, the changes in envelope, lighting and mechanical requirements were each separately simulated, without changing the 1989 edition's requirements for the other components. Then, because the lighting and envelope requirements impact each other, particularly in the 1989 edition, the combined lighting and envelope requirement differences were analyzed, again without changing the 1989 edition's requirements for the other components. Calculating the difference between this combination and all 1999 edition requirements allowed an assessment of the impact of the mechanical changes after adjusting for this thermal load shift. In all, six separate sets of requirement changes were simulated.

In total, 2464 simulations were performed for each set of requirement changes. A prototypical 48,000 ft^2, 15-zone, slab-on-grade building was used for all the simulations. Simulation results for this prototypical building size were then scaled to reflect aggregate energy use in buildings across a wide range of sizes and shapes using Commercial Building Energy Consumption Survey building data. Single zone air-conditioning and heating systems were assumed in the building model to permit this scaling. This simplification should result in a lower-bound estimate of energy savings with the standard as explained in mechanical system characterization below.

II. Simulation Input Characterization

A. Envelope

The building envelope characteristics examined in the analysis were the opaque wall and roof U-factors, the fenestration U-factors, either the fenestration Shading Coefficient requirements (in the 1989 edition) or Solar Heat Gain Coefficient requirements (in the 1999 edition), and the effective slab U-factors for slab on grade construction. These characteristics were determined for each set of requirement changes, building type, and climate combination simulated.

The 1989 edition's envelope requirements simulated were based on the 1989 edition's Alternate Component Packages (ACP) tables. These tables represent the prescriptive compliance path for the 1989 edition's envelope requirements. Because the 1989

edition's requirements do not necessarily reflect the performance of typical building assemblies, the actual U-factors used in the simulations were chosen to reflect the U-factors of real building assemblies which best approach, without being less stringent than, the U-value requirements of the standard. This is expected to be more representative of the real envelope performance resulting from application of the 1989 edition. Note that by being more stringent than the U-factor requirements, this procedure provides a conservative estimate of the envelope energy savings.

In addition, the 1989 edition's ACP tables represent more stringent envelope requirements than that specified for most climates or buildings, using these equations outlined in Chapter 8 of the 1989 edition. The equations are embodied in the ENVSTD, version 2.4, software. For this reason, the use of the ACP tables as the basis for the 1989 edition's envelope provides a lower boundary to the estimate of energy savings from the building envelope requirements.

B. Lighting

The lighting power density requirements were developed from the whole building lighting requirements for both the 1989 and 1999 editions, for comparable building types, where available. The 1999 edition provides single value whole building lighting power density values for 31 different building types. The 1989 edition provides whole building lighting power density values for only 11 different building types. However, it provides different lighting power densities for six different building size categories within each building type. In neither case do the whole building lighting power density values correspond perfectly to the building types simulated. The following procedure was used to develop whole building lighting numbers for each of these categories.

1. Lighting Power—1989 Edition

For office and warehouse building types, where there is a direct match with the 1989 standard whole building lighting power categories, the lighting power density was estimated by weighting the whole lighting power density across the six building size categories by the fraction of each building type's floor space in each size category using CBECS95 data.

In the case of Food Service and Education, the 1989 edition provides lighting power density values for subcategories of these building types. Food Service is composed of Fast Food/Cafeteria and Leisure Dining/Bar subcategories, Education is composed of Preschool/Elementary, Jr. High/High School, and Technical/Vocational subcategories. In these cases, first the lighting power densities for the different building sub types were averaged together for each building area category. Then, a weighting of these new lighting power densities by building size category was made, using CBEC's data for Food Service or Education building types, as appropriate.

In the case of retail type buildings, the 1989 edition has three basic retail building subcategories, Retail, ''Mall Concourse, and ''Service. Commercial Building Energy Consumption Survey floor area data is categorized as Enclosed Shopping Center/Mall, Retail (except Mall), Service (except Food), and Strip Shopping. To make a realistic weighting by retail type the following allocation of Commercial Building Energy Consumption Survey retail type floor area was made.

TABLE 17.—ALLOCATION OF CBECS95 RETAIL TYPE FLOOR AREA

Retail building categories—1989 edition	Allocation of CBECS95 building category floor area
Retail	Retail (except Mall) plus Strip Shopping plus half of Enclosed Shopping/Mall.
Mall Concourse	Half of Enclosed Shopping/Mall.
Service	Service (except Food).

Then a weighted average of the allowed lighting power densities was constructed, using the 1989 edition's lighting power density values and the CBECS95 floor area data for each building type and size category.

For Lodging and Public Assembly building types, the 1989 edition has no direct match in the whole building lighting power density tables. For a comparison of these building types, the 1989 edition's whole building lighting power density values were developed by applying the appropriate 1989 edition's space-type lighting power density values (with appropriate Area Factor adjustments) to the building specific space type square footage data used in the development of the 1999 edition lighting power densities. The 1989 edition building specific space type data models the actual weighting of space type square footage, within a specific building type, based on actual current U.S. construction data. The lighting power density value for the Lodging category is made up of the average of the whole building lighting power densities constructed for the 1999 edition's building categories: Dormitory, Hotel, and Motel. The lighting power density value for the Public Assembly categories is similarly made up of the average 1999 edition's whole building lighting power density values for Convention Center, Motion Picture Theater, Performing Arts Theater, Town Hall, Sports Arena, Museum, and Gymnasium.

2. Lighting Power—1999 Edition

The 1999 edition provides single value, whole building, lighting power density requirements for Office, Retail, Education, and Warehouse buildings, and these requirements were used in the simulations. The 1999 edition does not provide single lighting power density values for Food Service, Lodging, or Public Assembly buildings. For these cases, the average whole building lighting power density requirements, for building types falling in each category, was taken to form a single lighting power density requirement. In these cases, the same specific building types used to develop the 1989 edition's lighting power density values were used to derive the 1999 edition's lighting power densities for Lodging and Public Assembly building types. The 1999 edition's Food Service value was derived as the average of the 1999 edition's three whole building food service building type values.

Table 18 shows a comparison of Whole Building lighting requirements under both editions.

TABLE 18.—LIGHTING POWER DENSITY

[Watts/ft^2]

Building type	1989 edition	1999 edition
Education	1.79	1.50
Food Service	1.62	1.73
Lodging	1.53	1.73
Offices	1.63	1.30
Public Assembly	1.72	1.53
Retail	2.36	1.90
Warehouse/Storage	0.53	1.20

C. Mechanical Equipment

Single zone cooling and heating systems were used in the analysis. The choice of single zone system in the analysis is expected to provide a lower boundary to our estimate of cooling energy savings. First, this is because the improvement in the 1999 edition's average efficiency requirements, for single zone cooling systems (typically unitary equipment), is relatively small compared to that for typical central system cooling equipment (typically water chillers). This is more obvious when one realizes that shipments of all products to commercial buildings includes residential type cooling

products shipped to small commercial buildings. Additionally, modeling single zone systems does not take into account the fact that the 1999 edition has introduced requirements for central system heat rejection equipment, where none existed in the 1989 edition. There is relatively little improvement in heating equipment efficiency requirements, in the 1999 edition, for equipment used in single zone systems (typically furnaces), or central systems (typically boilers). The impact of the 1999 edition on heating energy use will typically be determined principally by changes in heating loads rather than heating equipment efficiency.

1. Cooling Equipment

Cooling equipment efficiencies were developed by weighting the energy efficiency rating for each of 20 categories of single zone cooling equipment in the standard, by an estimate of shipped cooling capacity for each category. The primary source of shipping data was 1998 U.S. Census Data. In the case of the less than 65,000 Btu per hour unitary air source heat pumps and air conditioners, this census data was augmented by our interpretation of Air-Conditioning and Refrigeration Institute and Lawrence Berkeley National Laboratory data on single phase air-conditioners and heat pumps shipped to commercial buildings. Using the weighting information and equipment efficiencies in each edition, the average unitary equipment efficiency requirement for commercial buildings increased 7.5 percent, from an average energy efficiency ratio of from 9.28 to 9.98. This improvement was simulated for all building types except Lodging. For Lodging, it was assumed that the majority of single zone cooling equipment would be packaged terminal equipment. The average efficiency requirement for packaged terminal equipment increased 22 percent, from 8.4 to 10.28, based on a shipped capacity weighting. These efficiencies were used in the Lodging simulations for the respective Standard levels.

2. Space Heating Equipment

No change in heating equipment combustion efficiency is required in the 1999 edition. However, for commercial furnaces, a reduction in the loss through the equipment casing from 1.5 percent to 0.75 percent was modeled to reflect differences in the requirements in the two editions. No change in furnace casing losses was assumed where electric resistance heat was assumed.

3. Economizers

For each building type, simulations were made both assuming economizer operation and not assuming economizer operation. Based on the economizer requirements in each edition and the available cooling equipment shipment data, shipped cooling capacity weights were developed for systems requiring economizer usage in each climate.

4. Service Water Heating Equipment

Service water heating equipment efficiencies increased from 78 percent to 80 percent for most tank-type gas fired water heaters. This was reflected in the input assumptions. We did not account for shipments of residential size water heating equipment (regulated by manufacturing standards under Subpart C of 10 CFR 430) to commercial buildings. While these units may be used in some commercial buildings, increased efficiencies are the result of regulatory actions under 10 CFR 430, not Standard 90.1. Nor did we account for the use of tankless instantaneous water heaters in commercial buildings. Correctly accounting for shipped capacity of both the residential size and tankless equipment to commercial buildings would reduce the average efficiency improvement somewhat, but accurate shipment data to commercial buildings is largely unavailable.

No change in water heater standby loss efficiencies was modeled. For fossil fuel fired equipment, the standby loss efficiencies within a given size category are essentially the same. While a different formulation of the standby loss equations was used in the 1999 edition, there are both standby loss increases and decreases in any given product category. We are unaware of a data base that categorizes this data to permit accurate estimation of a net result. For electric water heaters, there appears to be a reduction in standby loss efficiency in the 1999 edition. However, the Energy Policy and Conservation Act, as amended, does not permit the manufacture or sale of these lower efficiency products. Therefore, there is no predicted impact on actual buildings.

D. Aggregation of Results

Aggregation to a national estimate of energy use is based on energy use intensities (EUI) developed from simulations, under each edition. Aggregation of energy use intensity from the simulations was done as follows: (1) Extract zone-based energy use intensities from simulations; (2) aggregate results by required economizer usage in each climate; (3) map simulation results by climate to 11 geographical areas (augmented census divisions); (4) scale simulation results to existing building stock floor area by building type and census region; (5) weight results for frame and mass wall construction by appropriate building type and census region weights for these types of construction; (6) weight results for heating fuel by augmented census division weights for electric resistance heating usage in commercial buildings (Commercial Building Energy Consumption Survey data); (7) convert energy use intensities by fuel type to site energy, source energy, and energy cost intensities, by building type, and augmented census division; (8) weight energy use intensity results by building construction floor area estimates, by building type and in each augmented census division. The building construction data was derived from the Energy Information Administration's National Energy Modeling System data sets.

[FR Doc. 02–17637 Filed 7–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2126–001]

Consolidated Edison Company of New York, Inc.; Notice of Filing

July 9, 2002.

Take notice that on June 28, 2002, Consolidated Edison Company of New York, Inc., (Con Edison) submitted for filing a revised unexecuted Interconnection Agreement between Con Edison and PSEG Power In-City I, LLC (PSEG Power) making a minor correction to the filing made on June 20, 2002. This filing is made to correct a formatting error in the table of contents of the agreement.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: July 19, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17722 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–396–000, CP02–397–000 and CP02–398–000]

Greenbrier Pipeline Company, LLC; Notice of Applications

July 8, 2002.

Take notice that on July 3, 2002, Greenbrier Pipeline Company, LLC (Greenbrier), 120 Tredegar Street, Richmond, Virginia 2319, filed applications pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's Regulations. In Docket No. CP02–396–000, Greenbrier requests a certificate of public convenience and necessity authorizing it to construct, own, operate, and maintain certain pipeline, compression and other facilities. In Docket No. CP02–397–000, Greenbrier requests a blanket certificate pursuant to Subpart G of Part 284 of the Commission's Regulations authorizing Greenbrier to provide open access firm and interruptible transportation services. In Docket No. CP02–398–000, Greenbrier requests a blanket certificate pursuant to Subpart F of Part 157 of the Commission's Regulations to perform certain routine construction, operation, and abandonment activities. Greenbrier's proposals are more thoroughly described in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (please call (202) 208–2222 for assistance).

In Docket No. PF01–1–000, Greenbrier participated in a pre-filing National Environmental Policy Act review of its proposed project intended to identify landowner issues and resolve problems before the certificate application was filed. Greenbrier asks the Commission to issue a preliminary determination on non-environmental issues by December 31, 2002 and a final order granting the requested authorizations by June 1, 2003. Greenbrier anticipates placing a portion of the facilities in service by February 1, 2005 for electric generation plant test gas and by May 1, 2005 for general purposes. The entire project is scheduled to be in-service by November 1, 2005.

Any questions regarding Greenbrier's application should be directed to Sean Sleigh, Certificates Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301, phone (304) 627–3463 or fax (304) 627–3305.

Greenbrier proposes to construct mainline facilities consisting of: (1) 217 miles of 30-inch pipeline from an interconnect with Dominion Transmission, Inc. and Tennessee Gas Pipeline near Clendenin, WV, to a point in Rockingham County, NC (through Kanawha, Clay, Nicholas, Fayette, Raleigh, Summers, and Mercer Counties, WV, and Giles, Bland, Pulaski, Montgomery, Floyd, Franklin, and Henry Counties, VA); (2) 41 miles of 24-inch pipeline continuing through Rockingham, Caswell, and Person Counties, NC; and (3) about 17.5 miles of 20-inch pipeline from Person County to Granville County, NC. The proposed facilities include three laterals: (1) Approximately 1 mile of 12-inch lateral pipeline in Person County, NC; (2) 2 miles of 10-inch lateral pipeline in Granville County, NC; and (3) approximately ½ mile of 30-inch lateral pipeline in Rockingham County, NC. Greenbrier also proposes to construct a total of 44,980 HP of compression at two sites: (1) 33,145 HP at the proposed Elk River Compressor Station in Kanawha county, WV, and (2) 11,835 HP at the proposed Eden Compressor Station site in Rockingham County, NC. The proposed project's 279 miles of pipeline and two compressor stations will provide up to 600,000 Dth per day of firm transportation service. The estimated cost is approximately $497 million.

The project is said to be designed to create gas supply diversity and to serve the growing energy market in the South Atlantic region, including local distribution companies' growth, new electric power plants, marketers, and others. Greenbrier has entered into 15-year precedent agreements with seven shippers for all of the project's 600,000 Dth per day capacity. The precedent agreements reflect both negotiated rates and recourse rates, and two of the precedent agreements include interim rates for the period during which a portion of the project's facilities will be in early service. Greenbrier states that the only difference between the negotiated rates and the recourse rates its that the negotiated rates include a lower rate of return on equity.

Greenbrier's recourse rates, as stated in its *pro forma* tariff, include both term differentiated and seasonal rates. For FT contracts of 15 years or greater, the recourse rates are based upon a 15-year levelized cost-of-service. The recourse rates for contracts having a term shorter than 15 years are based on a traditional, first full-year cost-of-service. Seasonal rates are calculated for a summer period (April 1 through October 31) and a winter period (November 1 through March 31).

Rate design	Traditional rate ($/Dth)	Levelized rate ($/Dth)
Winter Reservation Rate	$20.9016	$17.1753
Winter Daily Rate	0.6921	0.5687
Summer Reservation Rate	4.9766	4.0894
Summer Daily Rate	0.1628	0.1338
Annual Reservation Rate	11.6120	9.5418
Annual Daily Rate	0.3818	0.3137

Greenbrier requests regulatory asset treatment for the differences between its book depreciation and the depreciation component of its levelized firm recourse rates and its initial levelized negotiated rates. Greenbrier also requests that the Commission authorize it to cease calculating AFUDC on certain facilities, at the time those facilities are placed in service early, and capture and defer as a regulatory asset any shortfall in revenue, or as a regulatory liability any excess revenue collected, compared to the cost of service for those facilities placed in service (on or about May 1, 2005) until the entirety of the project is placed in service (on or about November 1, 2005).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 29, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be

placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17718 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC02–85–000 and ER02–2218–000]

Minnesota Power, Rainy River Energy Corporation; Notice of Filing

July 9, 2002.

Take notice that on June 26, 2002, Minnesota Power (MP) and Rainy River Energy Corporation (Rainy River) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Joint Application for Order Authorizing Transfer of Jurisdictional Facilities pursuant to Section 203 of the Federal Power Act seeking authorization for Rainy River to transfer to MP three power contracts. MP owns and operates generation, transmission and distribution facilities and provides electricity to 138,000 customers in northeastern Minnesota and northwestern Wisconsin. Rainy River is a power marketer that has a market-based rate tariff on file with the Commission.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: July 19, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17720 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–399–000, CP02–400–000 and CP02–401–000]

Missouri Interstate Gas, LLC; Notice of Application

July 9, 2002.

Take notice that on July 3, 2002, Missouri Interstate Gas, LLC (Missouri Interstate), 110 Algana Court, St. Peters, Missouri 63376, filed an application for a certificate of public convenience and necessity and related authorizations pursuant to Section 7(c) of the Natural Gas Act (NGA) and the Commission's Rules and Regulations thereunder. Missouri Interstate requests authorization for the following:

(i) A certificate of public convenience and necessity authorizing Missouri Interstate to construct, install, and operate natural gas pipeline facilities in Illinois and Missouri;

(ii) A blanket certificate of public convenience and necessity pursuant to Part 284, Subpart G of the Commission regulations authorizing the transportation of gas for others;

(iii) A blanket certificate of public convenience and necessity under Part 157, Subpart F of the Commission's regulations authorizing the construction, acquisition, abandonment and operation of certain facilities, all as more thoroughly described in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at

http://www.ferc.gov using the ''RIMS'' link, select ''Docket #'' and follow the instructions (please call (202) 208–2222 for assistance).

Missouri Interstate asks the Commission to issue a final certificate order by October 1, 2002, to allow Missouri Interstate to commence transportation services in time for the 2002–2003, heating season.

Any questions regarding Missouri Interstate's application should be directed to David J. Ries, President, Missouri Interstate Gas, LLC, 110 Algana Court, St. Peters, Missouri, 63376 at (636) 926–0387 or by fax (636) 926–3668 or Jane E. Stelck, Heller Ehrman, White & McAuliffe, LLP, Suite 300, 1666 K Street NW, Washington, DC, 20006 at (202) 912–2183 or by fax (202) 912–2020.

Missouri Interstate proposes to own, operate and place into service approximately 5.6 miles of existing 12-inch diameter pipeline and to construct approximately 1 mile of 12-inch diameter pipeline and interconnection valves. The existing facility extends from a point at the edge of the Mississippi River in Madison County, Illinois, under the river, to a point approximately five miles west of the Mississippi River in St. Charles County, Missouri.

Missouri Interstate proposes to transport up to 20 MMcf/day of natural gas to customers in the West St. Louis suburbs in Missouri. Missouri Interstate estimates that the acquisition, conversion, construction and interconnections of the pipeline will result in an overall plant investment of approximately $13,361,180.

Missouri Interstate proposes to provide both firm and interruptible services based on an open access non-discriminatory basis, pursuant to Part 284 of the Commission's Regulations, with services available at both recourse and negotiated rates. Missouri Interstate's with cost-based rates are designed using a straight-fixed variable rate structure. Missouri Interstate had submitted a pro forma FERC Gas Tariff for Commission review.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 30, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17719 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–391–000]

Natural Gas Pipeline Company of America; Notice of Application

July 9, 2002.

On June 24, 2002, Natural Gas Pipeline Company of America (Natural), located at 747 East 22nd Street, Lombard, Illinois 60148, filed an application in Docket No. CP02–391–000 pursuant to section 7(c) of the Natural Gas Act (NGA), and subpart A of part 157 of the Federal Energy RegulatoryCommission's (Commission) regulations for a certificate of public convenience and necessity authorizing the construction and operation of one new 6,000 horsepower compressor and the construction of seventeen new injection/withdrawal wells at Natural's North Lansing Storage Field located in Harrison County, Texas, which will enable Natural to provide an additional 10.7 Bcf of firm storage service. The total estimated construction cost for the proposed section 7(c) facilities is $31,053,749. The application is on file with the Commission and open to public inspection. This filing 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).

The additional 10.7 Bcf working gas and storage service was offered to

customers on a firm basis under Natural's Rate Schedule ''Nominated Storage Service'' (NSS). One new non-affiliated shipper has signed a binding precedent agreement for the full volume for a term of not less than ten years with a negotiated rate for service on Natural's Gulf Coast system. The project will result in an aggregate maximum daily quantity of 146,666 Dth of additional NSS. Furthermore, Natural proposes that the NSS service will be available by the summer of 2003 and requests that the Commission issue a certificate in this docket by November 2002.

Any questions regarding this application should be directed to Floyd Hofstetter, Vice President, Storage Operations, Natural Gas Pipeline Company of America, 747 East 22nd Street, Lombard, Illinois 60148, phone (630) 691–3660.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 30, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the nonparty commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17717 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG02–6–000]

Texas Gas Transmission Corporation; Notice of Filing

July 9, 2002

On June 25, 2002, Texas Gas Transmission Corporation filed its revised standards of conduct under 18 CFR Part 161 of the Commission's regulations.

Texas Gas Transmission Corporation states that it served copies of the filing on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure. (18 CFR 385.211 or 385.214) All such motions to intervene or protest should be filed on or before July 24, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17724 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG02–5–000]

Williams Gas Pipelines Central, Inc.; Notice of Filing

July 9, 2002

On June 21, 2002, Williams Gas Pipelines Central, Inc. filed its revised

standards of conduct under 18 CFR Part 161 of the Commission's regulations.

Williams Gas Pipelines Central, Inc. states that it served copies of the filing on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure. (18 CFR 385.211 or 385.214) All such motions to intervene or protest should be filed on or before July 24, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17723 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–87–000]

Wisvest Corporation; Wisvest-Connecticut LLC; PSEG Fossil LLC; Notice of Filing

July 9, 2002.

Take notice that on June 28, 2002, Pursuant to Section 203 of the Federal Power Act (''FPA''), 16 U.S.C. 824b (2000), and Part 33 of the Commission's regulations thereunder, 18 CFR Part 33, Wisvest Corporation (Wisvest or Seller), Wisvest-Connecticut, LLC (Wisvest-Connecticut) and PSEG Fossil LLC (PSEG Fossil or Buyer) (together, the Applicants) filed an application with the Federal Energy Regulatory Commission (Commission) for approval to permit Wisvest to transfer and PSEG Fossil to acquire 100% of the membership interests Wisvest currently holds in Wisvest-Connecticut, a public utility subject to the Commission's jurisdiction under the FPA. The proposed transaction will result in PSEG Fossil indirectly acquiring control over Wisvest-Connecticut's two generating stations, a 553 MW coal and oil fired generating facility in Bridgeport, Connecticut and a 466 MW oil and gas-fired generating facility in New Haven, Connecticut, as well as associated jurisdictional facilities, wholesale power sales contracts and Wisvest-Connecticut's market-based rate schedule on file with the Commission.

PSEG Fossil is a new market entrant in New England that, together with its affiliates, owns only de minimis electric generation in New England, all of which is fully committed under long-term power sales agreements. The Applicants, therefore, request a shortened notice period and expedited Commission approval within 60 days of filing in order to achieve closing of the proposed transaction on or before October 1, 2002.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: July 19, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17721 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–40–000, et al.]

American Electric Power Company, Inc., et al.; Electric Rate and Corporate Regulation Filings

July 8, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. American Electric Power Company, Inc. and Central and South West Corp.

[Docket Nos. EC98–40–000, ER98–2770–000, ER98–2786–000]

Take notice that on June 28, 2002, American Electric Power Service Corporation (AEPSC), on behalf of American Electric Power Company, Inc., submitted a compliance filing with respect to a divestiture commitment in these dockets.

Comment Date: July 19, 2002.

2. Nevada Power Company

[Docket No. ER02–84–002]

Take notice that on May 1, 2002, Nevada Power Company tendered for filing its compliance filing making the changes to the executed Interconnection and Operation Agreement between Nevada Power Company and Duke Energy Moapa, LLC required by the Federal Energy Regulatory Commission's April 1, 2002 Order in this docket.

Comment Date: July 19, 2002.

3. Southern Company Services, Inc.

[Docket Nos. ER02–352–003]

Take notice that on July 1, 2002, Southern Company Services, Inc. (SCS), on behalf of Georgia Power Company, made a compliance filing in accordance with the Federal Energy Regulatory Commission's order in Southern Company Services, Inc., 99 FERC ¶ 61,249.

Comment Date: July 22, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1420–004]

Take notice that on July 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed with the Federal Energy Regulatory Commission (Commission) a compliance filing in the above reference docket pursuant to the Commission's May 31, 2002 Order in Midwest Independent Transmission System, Docket No. ER02–1420–000, 99 FERC ¶ 61,250.

The Midwest ISO requested that the Commission accept the compliance filing and subsequent changes to the Revised Midwest ISO Agreement and Resulting Company Open Access Transmission Tariff as effective March 29, 2002. Copies of this filing were electronically served upon Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at www.midwestiso.org under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: July 22, 2002.

5. Southern Company Services, Inc.

[Docket No. ER02–2205–000]

Take notice that on July 1, 2002, Southern Company Services, Inc., as agent for Southern Power Company (Southern Power), tendered for filing the Requirements Service Agreement between Southern Power and Coweta-Fayette Electric Membership Corporation (Coweta-Fayette EMC) dated as of February 28, 2002 (the Service Agreement), pursuant to the Commission's authorization for Southern Power to sell power at market rates under the Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 4 (Supersedes Original Volume No. 4). The Service Agreement provides the general terms and conditions for capacity and associated energy sales from Southern Power to Coweta-Fayette EMC commencing on June 1, 2002.

Comment Date: July 22, 2002.

6. Southern Company Services, Inc.

[Docket No. ER02–2206–000]

Take notice that on July 1, 2002, Southern Company Services, Inc., as agent for Southern Power Company (Southern Power), tendered for filing the Requirements Service Agreement between Southern Power and Flint Electric Membership Corporation (Flint EMC) dated as of February 28, 2002 (the Service Agreement), pursuant to the Commission's authorization for Southern Power to sell power at market rates under the Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 4 (Supersedes Original Volume No. 4). The Service Agreement provides the general terms and conditions for capacity and associated energy sales from Southern Power to Flint EMC commencing on June 1, 2002.

Comment Date: July 22, 2002.

7. Southern Company Services, Inc.

[Docket No. ER02–2207–000]

Take notice that on July 1, 2002, Southern Company Services, Inc., as agent for Southern Power Company (Southern Power), tendered for filing the Requirements Service Agreement between Southern Power and Sawnee Electric Membership Corporation (Sawnee EMC) dated as of February 28, 2002 (the Service Agreement), pursuant to the Commission's authorization for Southern Power to sell power at market rates under the Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 4 (Supersedes Original Volume No. 4). The Service Agreement provides the general terms and conditions for capacity and associated energy sales from Southern Power to Sawnee EMC commencing on June 1, 2002.

Comment Date: July 22, 2002.

8. Southern Company Services, Inc.

[Docket No. ER02–2208–000]

Take notice that on July 1, 2002, Southern Company Services, Inc., as agent for Southern Power Company (Southern Power), tendered for filing the Requirements Service Agreement between Southern Power and Okefenoke Rural Electric Membership Corporation (Okefenoke REMC) dated as of February 28, 2002 (the Service Agreement), pursuant to the Commission's authorization for Southern Power to sell power at market rates under the Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 4 (Supersedes Original Volume No. 4). The Service Agreement provides the general terms and conditions for capacity and associated energy sales from Southern Power to Okefenoke REMC commencing on June 1, 2002.

Comment Date: July 22, 2002.

9. Southern Company Services, Inc.

[Docket No. ER02–2209–000]

Take notice that on July 1, 2002, Southern Company Services, Inc., as agent for Southern Power Company (Southern Power), tendered for filing the Requirements Service Agreement between Southern Power and Flint Electric Membership Corporation (Flint EMC) dated as of February 28, 2002 (the Service Agreement), pursuant to the Commission's authorization for Southern Power to sell power at market rates under the Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 4 (Supersedes Original Volume No. 4). The Service Agreement provides the general terms and conditions for capacity and associated energy sales from Southern Power to Flint EMC commencing on June 1, 2002.

Comment Date: July 22, 2002.

10. Southern Company Services, Inc.

[Docket No. ER02–2210–000]

Take notice that on July 1, 2002, Southern Company Services, Inc., as agent for Southern Power Company (Southern Power), tendered for filing the Requirements Service Agreement between Southern Power and Carroll Electric Membership Corporation (Carroll EMC) dated as of February 28, 2002 (the Service Agreement), pursuant to the Federal Energy Regulatory Commission's authorization for Southern Power to sell power at market rates under the Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No. 4 (Supersedes Original Volume No. 4). The Service Agreement provides the general terms and conditions for capacity and associated energy sales from Southern Power to Carroll EMC commencing on June 1, 2002.

Comment Date: July 22, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–17733 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 9, 2002.

a. *Type of Filing:* Application for Amendment of License to find that a certain transmission line is no longer jurisdictional and no longer requires licensing.

b. *Project No.:* 1971–075.

c. *Date Filed:* February 26, 2002.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Hells Canyon.

f. *Location:* The project is located on the Snake River in Ada, Adam, Boise, Gem and Washington Counties, Idaho.

g. *Filed Pursuant to:* Federal Energy Regulatory Commission Regulation, 18 CFR 385.207.

h. *Applicant Contacts:* Robert W. Stahman, Vice President, Secretary and General Counsel, Idaho Power Company, 1221 West Idaho Street, P.O. Box 70, Boise, Idaho 83707. Lee S. Sherline, Leighton & Sherline, 8211 Chivalry Road, Annadale, VA 22003–1337.

i. *FERC Contact:* Etta Foster, (202) 219–2679, or *etta.foster@ferc.gov.*

j. *Deadline for filing comments, motions to intervene or protests:* August 12, 2002.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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.

The Commission's rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intevenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The applicant requests that the eastern 4.02 miles of its transmission line #923 be deleted from the license and exhibits J and M be revised to reflect this change.

l. *Location of the Filing:* A copy of the filing is available for inspection and reproduction at the Commision's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. 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). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17726 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 9, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Change Project Boundary and Approve Revised Exhibit G.

b. *Project No.:* 2569–093.

c. *Date Filed:* June 18, 2002.

d. *Applicant:* Erie Boulevard Hydropower, L.P.

e. *Name of Project:* Black River Project.

f. *Location:* The project is located on the Black River, in Jefferson County, New York.

g. *Filed Pursuant to:*Federal Power Act, 16 U.S.C. §§ 791 (a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Sam S. Hirshey, Manager, Hydro Licensing & Regulatory Compliance, Erie Boulevard Hydropower, L.P., 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088, (315) 413–2790.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Mohamad Fayyad at (202) 219–2665, or e-mail address: *mohamad.fayyad@ferc.gov.*

j. *Deadline for filing comments and or motions:* August 12, 2002. *All documents (original and eight copies) should be filed with:* Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2569–093) on any comments or motions filed.

k. *Description of Request:* The licensee is proposing to add to project boundary about a ½ acre of land adjacent to the power canal at the Kamargo Development. The subject land is currently the property of Ms. Gayle McGregor, which includes her residence. The licensee says the inclusion of Ms. McGregor's property in the project boundary has been made necessary by the continued and periodic emergence of sinkholes at the property, which FERC has determined are caused by the project operation and water in the power canal. The licensee says its proposal that includes acquiring the property, removing the residence and fencing the affected area, is the only logical and effective long term plan, which will eliminate potential hazards associated with the sinkholes.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. 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). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. 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 at *http://www.ferc.gov* under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17727 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

July 9, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 12197–000.

c. *Date filed*: June 10, 2002.

d. *Applicant*: Crow Creek Hydro, LLC.

e. *Name and Location of Project*: The Crow Creek Dam Hydroelectric Project would be located at an existing dam owned by the City of The Dalles on Crow Creek in Wasco County, Oregon. The project would not occupy Federal or Tribal lands.

f. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contact*: Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact*: James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. 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. Please include the project number (P–12197–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project*: The proposed project would consist of: (1) The existing 113-foot-high, 765-foot-long concrete dam impounding the Crow Creek Reservoir, which has a 31-acre surface area at normal maximum water surface elevation 2,622 feet, (2) a proposed 250-foot-long, 78-inch-diameter steel penstock, (3) a proposed powerhouse containing one generating unit with an installed capacity of 3.5 megawatts, (4) a proposed 15-mile-long, 25-kilovolt transmission line, and (5) appurtenant facilities. The project would have an average annual generation of 15.3 gigawatthours.

k. 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). A copy is also available for inspection and reproduction at the address in item g. above.

l. *Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be

filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17729 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

July 9, 2002

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 12199–000.

c. *Date filed*: June 10, 2002.

d. *Applicant*: Chatfield Hydro, LLC.

e. *Name and Location of Project*: The Chatfield Dam Hydroelectric Project would be located on the South Platte River in Douglas County, Colorado. The project would utilize the U.S. Army Corps of Engineer's existing Chatfield Dam.

f. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contact*: Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact*: James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. 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. Please include the project number (P–12199–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project*: The proposed project, using the existing Chatfield Dam and Reservoir, would consist of: (1) A proposed 1,500-foot-long, 54-inch-diameter steel penstock, (2) a proposed powerhouse containing one generating unit with an installed capacity of 2.1 megawatts, (3) a proposed one-mile-long, 15-kilovolt transmission line, and (4) appurtenant facilities. The project would have an average annual generation of 8.5 gigawatthours.

k. 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). A copy is also available for inspection and reproduction at the address in item g. above.

l. *Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be

filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17730 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

July 9, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 12215–000.

c. *Date filed*: June 17, 2002.

d. *Applicant*: Allen-Chivery Hydro, LLC.

e. *Name and Location of Project*: The Allen-Chivery Dam Hydroelectric Project would be located at an existing dam owned by the State of Louisiana on the Bayou Bourbeu in Natchitoches Parish, Louisiana.

f. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact*: Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact*: James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. 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. Please include the project number (P–12215–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. Description of Project: The proposed project would consist of: (1) The existing 25-foot-high, 400-foot-long concrete dam impounding Black Lake, which has a 10,500-acre surface area at normal maximum water surface elevation 105 feet, (2) two proposed 100-foot-long, 168-inch-diameter steel penstocks, (3) a proposed powerhouse containing two generating units, each with an installed capacity of 3.2 megawatts, (4) a proposed one-mile-long, 25-kilovolt transmission line, and (5) appurtenant facilities. The project would have an average annual generation of 15.25 gigawatthours.

k. 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). A copy is also available for inspection and reproduction at the address in item g. above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include

an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 211, 214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17731 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Workshop; Better Stakeholder Involvement: How to Make It Work

July 9, 2002.

The Office of Energy Projects is continuing the second phase of its Better Stakeholder Involvement Series with a workshop to be held in Denver, Colorado on Thursday, August 8, 2002. We are again inviting interstate natural gas companies; Federal, state and local agencies; landowners and other non-governmental organizations interested in developing strategies for involving people in the pre-filing planning process for natural gas pipelines.

We will be working from the ideas outlined in staff's December 2001 report: ''Ideas for Better Stakeholder Involvement In The Interstate Natural Gas Pipeline Planning Pre-Filing Process.'' [1] Our intent is to identify ways to assist all involved parties in working together to resolve issues early in the pipeline planning process; help companies prepare and file complete applications; and to expedite the Commission's regulatory process, where appropriate.

As we consider various ways to accomplish the pre-filing objectives, the Denver workshop will focus on methods of communication and the dissemination of information to the stakeholders. The workshop will include presentations from panel members sharing their experiences, and an open discussion forum for all participants. We will not discuss the merits of any pending or planned pipeline projects.

The workshop will be held at the Red Lion Hotel Denver Central, 4040 Quebec Street, Denver, Colorado 80216, phone number 1–303–321–6666. A preliminary agenda and directions to the hotel are enclosed.

If you plan to attend or have suggestions for the agenda, please respond by Friday, August 2, 2002 via facsimile to Roberta Coulter at 202/208–0353, or you may email our team at: gasoutreach@ferc.gov. Please include in the response the names, addresses, and telephone numbers of all attendees from your organization.

To help us enhance our panel discussions, please consider, and forward to us, issues and/or questions you would like to have addressed at the meetings. If you have any questions, you may contact any of the staff listed below:

Lauren O'Donnell 202/208–0325

Jeff Shenot 202/219–2178

Howard Wheeler 202/208–2299

J. Mark Robinson,

Director, Office of Energy Projects.

Attachments.

Preliminary Workshop Agenda—Better Stakeholder Involvement: How to Make It Work

Denver Workshop

August 8, 2002, 9:00 am–4:30 pm

Overview

The Denver meeting will be an interactive workshop that provides time for communication among the stakeholder groups. The meeting is geared toward brainstorming and idea generation. Speakers will address the following topics to set the stage for discussion.

Discussion Topics

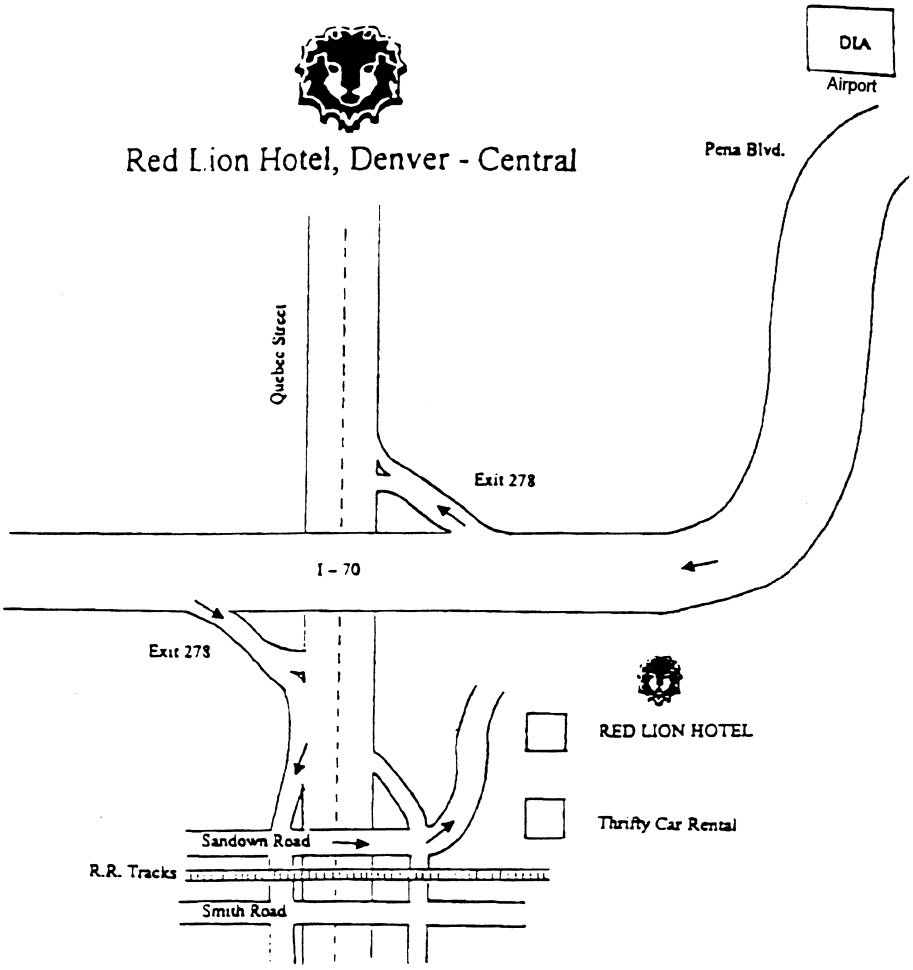
- Elements of Company Public Participation Plans: Getting the Word Out
- The Land Agent's Viewpoint: Making Contact
- Project-Specific Website Development: Demonstrations
- Maintaining the Agency/Company Relationship: A Case Study
- Working with State and Federal Agencies: How Early is Too Early?
- The Citizen Perspective: Before You Come On My Land. * * *

Your Participation

Please come prepared with examples of innovative tools and ideas that work. In addition to panel presentations, we expect group discussion to add to our collective understanding of how best to inform and involve all stakeholders in the pre-filing siting process.

BILLING CODE 6717–01–P

[1] The staff report can be downloaded from the FERC web-site at www.ferc.gov or requested by e-mail at: gasoutreach@ferc.gov.



From Denver International Airport and Westbound

Exit the airport on Pena Boulevard. Follow Pena Boulevard approximately 9 miles to I-70 West Bound. I-70 West to Exit 278 Quebec Street. Turn left onto Quebec Street (South bound). Get in the far right lane and pass under the Interstate. Exit right for Smith Road. Stay in the left lane after exiting. Take the first left onto Sandown Road. Cross over the Quebec Street upper level (stop sign) and turn left onto frontage road in front of the Thrifty Car Rental. Hotel entrance is on the right hand side.

East Bound

I-70 East Bound to Exit 278 Quebec Street. Stay right for Smith Road. After exiting move to the left lane. Take the first left onto Sandown Road. Cross over the Quebec Street upper level (stop sign) and turn left onto the frontage road in front of the Thrifty Car Rental. Hotel entrance is on the right hand side.

Southeast Bound on I-270

I-270 Southeast Bound to the Quebec Street Exit, turn left. Get in the far right lane and pass under the Interstate. Exit right for Smith Road. Stay in the left lane after exiting. Take the first left onto Sandown Road. Cross over the Quebec Street upper level (stop sign) and turn left onto the frontage road in front of the Thrifty Car Rental. Hotel entrance is on the right hand side.

Northbound on Quebec Street

Stay in the far right lane (do not continue on Quebec under the overpass). Cross Smith Road and the railroad tracks. Turn right onto the frontage road in front of Thrifty Car Rental. Hotel entrance is on the right hand side

[FR Doc. 02–17725 Filed 7–12–02; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–12–000]

Standard Market Design Data and Software Standards; Notice of Conference and Agenda

July 9, 2002.

As announced in the Notice of Conference issued June 6, 2002, the staff of the Federal Energy Regulatory Commission (Commission) will hold a conference on data and software needs in connection with the implementation of the Commission's Standard Market Design (SMD) rule. The conference will be held on July 18, 2002, starting at 9:00 a.m. (a change from the previously noticed starting time) at the Federal Energy Regulatory Commission, 888 First Street, N.E., in Washington DC, in the Commission Meeting Room.

The conference will discuss data and software standards needed to implement SMD efficiently. The focus will be on exploring what should be standardized; whether there should be a standard data model; on examining the potential for developing data sets to benchmark the needed software; and on finding user-friendly, transparent interfaces that will help to instill confidence in the process. Attached is the Conference Agenda.

All interested parties are invited to attend. There is no registration or fee.

The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202–347–3700, or 800–336–6646. Transcripts will be placed in the public record ten days after the Commission receives the transcripts. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection website at *http://www.capitolconnection.gmu.edu* and click on ''FERC.''

All interested parties are invited to attend. For additional information, please contact Rene Forsberg at 202–208–0425 or *Reneé.Forsberg@ferc.gov*.

Linwood A. Watson, Jr.,

Deputy Secretary.

Conference Agenda

Opening Remarks: 9 a.m.

Software Developments: 9:05 a.m.–11:30 a.m.

- Ongun Alsac, Senior Vice President, Nexant, Inc.
- John Finney, Director of Technology, ABB, Inc.
- Guillermo Irisarri, Executive Vice President and Principal Engineer, OATI, Inc.
- Petar Ristanovic, Executive Consultant, Siemens Power Transmission and Distribution, Inc.
- David Sun, Corporate Engineer, ALSTOM, Corp.

Lunch and Software Demos: 11:30 a.m.–1 p.m.

Security Issues: 1 p.m.–1:30 p.m.

- Howard Schmidt, Vice Chairman, President's Critical Infrastructure Protection Board.
- Chuck Noble, Information Security Coordinator, New England ISO.

ISO Software Experience: 1:30 p.m.–3:30 p.m.

- Cherie Broadrick, Manager Corporate Planning, ERCOT.
- David La Plante, Vice President Market Development, New England ISO.
- Andy Ott, General Manager of Market Coordination, PJM ISO.
- Roberto Paliza, Principal Consultant, Midwest ISO.
- Don Watkins, Chairman, Common Systems Interface Coordination Group, Seams Steering Group—Western Interconnection (SSG–WI).

Planning Process for Software and Data Standards: 3:45 p.m.–5 p.m.

- Clark Gellings, Vice President Power Delivery and Markets Electric Power Research Institute.
- Ongun Alsac, Senior Vice President, Nexant, Inc.
- John Finney, Director of Technology, ABB, Inc.
- Guillermo Irisarri, Executive Vice President and Principal Engineer, OATI, Inc.
- Petar Ristanovic, Executive Consultant, Siemens Power Transmission and Distribution, Inc.
- David Sun, Corporate Engineer, ALSTOM Corp.
- Cherie Broadrick, Manager Corporate Planning, ERCOT.
- David La Plante, Vice President Market Development, New England ISO.
- Andy Ott, General Manager of Market Coordination, PJM ISO.
- Roberto Paliza, Principal Consultant, Midwest ISO.
- Don Watkins, Chairman, Common Systems Interface Coordination Group, Seams Steering Group—Western Interconnection (SSG–WI).

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[FR Doc. 02–17732 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11566–000––Maine; Damariscotta Mills Project]

Ridgewood Maine Hydro Partners, L.P.; Notice Modifying a Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

July 9, 2002.

On October 18, 2001, the Federal Energy Regulatory Commission (Commission) issued a notice for the Damariscotta Mills Hydroelectric Project (FERC No. 11566–000) proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement for managing properties included in or eligible for inclusion in the National Register of Historic Places. The Damariscotta Mills Hydroelectric Project is located on the Damariscotta River, in Lincoln County, Maine. Ridgewood Maine Hydro Partners, L.P. is the licensee.

Rule 2010 of the Commission's Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The following additions are made to the restricted service list notice issued on October 18, 2001, for Project No. 11566–000:

Mr. Dale Wright, Chairman, Town of Nobleboro, 192 US Highway 1, Nobleboro, ME 04555;

Mr. Jonathan C. Hull, Esq., P.O. Box 880, Damariscotta, ME 04543;

Ms. Rosa Sinclair, Chair, Town of Jefferson, 58 Washington Road, Jefferson, ME 04348

Alec Giffen, Land & Water Associates, 9 Union Street, Hallowell, ME 04347

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–17728 Filed 7–12–02; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 285.2010.

ENVIRONMENTAL PROTECTION AGENCY

[OEI–10015; FRL–6723–8]

Toxic Chemical Release Reporting; Request for Comment on Renewal Information Collection; Correction; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical correction; extension of comment period.

SUMMARY: This notice corrects an error published in the **Federal Register** of July 1, 2002, (67 FR 44213) (FRL–6723–8) concerning a notice announcing that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to procedures described in 5 CFR 1320.12: Toxic Chemical Release Reporting (EPA ICR No. 1363.12, OMB No. 2070–0093). This ICR covers the reporting and record keeping requirements associated with reporting to the Toxics Release Inventory (TRI), which appear in 40 CFR part 372. The location for the Document Control Office (DCO), where comments may be submitted in person or by courier, was incorrectly listed. Also, this notice announces that the TSCA Nonconfidential Information Center, North East Mall, Room B–607, Waterside Mall, 401 M Street, SW, Washington, DC, will be closed from August 12–27, 2002. The Center will move to the EPA West Building basement, 1301 Constitution Avenue, NW, Washington, DC. This center contains the public version of the official record which is available for inspection. Because of these corrections, EPA is extending the comment period by 7 days until September 6, 2002. The comment period for the proposed rule was initially scheduled to close on August 30, 2002.

DATES: Comments, identified by the docket control number OEI–10015, must be received by EPA on or before September 6, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information contact: The Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/.*

For technical information about this Notice and the ICR renewal contact: Judith Kendall, Toxics Release Inventory Program Division, OEI, Environmental Protection Agency (2844T), 1200 Pennsylvania Ave. NW, Washington, DC 20460, Telephone: 202–566–0750; Fax: 202–566–0727; email: *kendall.judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

A. Affected Entities

Entities that will be affected by this action are those facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory (TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) to report annually to EPA their environmental releases and other waste management activities involving such chemicals.

Currently, those industries with the following SIC code designations (that meet all other threshold criteria for TRI reporting) must report toxic chemical releases and other waste management activities:

- 20–39, manufacturing
- 10, metal mining (except for SIC codes 1011, 1081, and 1094)
- 12, coal mining (except for SIC code 1241 and extraction activities)
- 4911, 4931 and 4939, electrical utilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
- 4953, RCRA Subtitle C hazardous waste treatment and disposal facilities
- 5169, chemicals and allied products wholesale distributors
- 5171, petroleum bulk plants and terminals
- 7389, solvent recovery services, and
- federal facilities in any SIC code

To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions at 40 CFR part 372 and section 3(a) of the Supporting Statement of the information collection. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

A. Electronic Availability

Electronic copies of the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (*http://www.epa.gov/fedrgstr/*). An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at *http://www.epa.gov/triinter/#forms.*

B. In Person

The Agency has established an official record for this action under docket control number OEI–10015. 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 TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099. The TSCA Nonconfidential Information Center will close from August 12–27, 2002. The Center will move to the EPA West Building basement at 1301 Constitution Avenue, NW, Washington, DC. For more information on how to access the information, contact James Wanzer at (202) 566–0729.

III. What Does This Notice Do?

This notice corrects an error published in the **Federal Register** of July 1, 2002, (67 FR 44213) (FRL–6723–8), concerning a notice announcing that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to procedures described in 5 CFR 1320.12: Toxic Chemical Release Reporting (EPA ICR No. 1363.12, OMB No. 2070–0093). This ICR covers the

reporting and record keeping requirements associated with reporting to the Toxics Release Inventory (TRI), which appear in 40 CFR part 372. The location for the Document Control Office (DCO), where comments may be submitted in person or by courier was incorrectly listed. Also, this notice announces that the TSCA Nonconfidential Information Center, North East Mall, Room B–607, Waterside Mall, 401 M Street, SW, Washington, D.C., will be closed from August 12–27, 2002.

The Center will move to the EPA West Building basement, 1301 Constitution Avenue, NW, Washington, DC. This center contains the public version of the official record which is available for inspection. Because of these corrections, EPA is extending the comment period by 7 days. Comments concerning EPA's notice announcing its plan to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12: Toxic Chemical Release Reporting (EPA ICR No. 1363.12, OMB No. 2070–0093) are due on or before September 6, 2002. The comment period for the proposed rule was initially scheduled to close on August 30, 2002. The following is the corrected information on how to submit comments for EPA's ICR renewal notice.

A. How and To Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., ''OEI–10015'') in your correspondence.

1. *By mail.* All comments should be sent in triplicate to : Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Ariel Rios Building, Washington, DC 20460.

2. *In person or by courier.* Comments may be delivered in person or by courier to: OPPT Document Control Office (DCO) in the EPA East Building, Room 6428, 1201 Constitution Avenue, NW, Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* Submit your comments electronically by e-mail to: ''*oppt.ncic@epa.gov.*'' Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI–10015. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit to the Agency?

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

List of Subjects in 40 CFR Part 372

Environmental protection, Information collection requests, Reporting and record keeping requirements.

Dated: July 5, 2002.

Elaine G. Stanley,

Director, Office of Information Analysis and Access, Office of Environmental, Information.

[FR Doc. 02–17686 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–10016; FRL–6723–9]

Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on Renewal Information Collection; Correction; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical correction; extension of comment period.

SUMMARY: This notice corrects an error published in the **Federal Register** of July 1, 2002, (67 FR 44197) (FRL–6723–9) concerning a notice announcing that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12: Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting (EPA ICR No. 1704.06, OMB No. 2070–0143). This ICR covers the reporting and record keeping requirements associated with reporting under the alternate threshold for reporting to the Toxics Release Inventory (TRI), which appear in 40 CFR part 372. The location for the Document Control Office (DCO), where comments may be submitted in person or by courier, was incorrectly listed. Also, this notice announces that the TSCA Nonconfidential Information Center, North East Mall, Room B–607, Waterside Mall, 401 M Street, SW., Washington, DC, will be closed from August 12–27, 2002. The Center will move to the EPA West Building basement, 1301 Constitution Avenue, NW., Washington, DC. This center contains the public version of the official record which is available for inspection. Because of these corrections, EPA is extending the comment period by 7 days until September 6, 2002. The comment period for the proposed rule was initially scheduled to close on August 30, 2002.

DATES: Comments, identified by the docket control number OEI–10016, must be received by EPA on or before September 6, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION: For general information, contact The Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800)553–7672, *http://www.epa.gov/epaoswer/hotline/.* For technical information about this Notice and the ICR renewal, contact: Judith Kendall, Toxics Release Inventory Program Division, OEI (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Telephone: 202–566–0750; Fax: 202–566–0727; email: *kendall.judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

A. *Affected Entities:* Entities that will be affected by this action are those facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory

(TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), to report annually to EPA their environmental releases of such chemicals.

Currently, those industries with the following SIC code designations (that meet all other threshold criteria for TRI reporting) must report toxic chemical releases and other waste management activities:

- 20–39, manufacturing sector
- 10, metal mining (except for SIC codes 1011, 1081, and 1094)
- 12, coal mining (except for SIC code 1241 and extraction activities)
- 4911, 4931 and 4939, electrical utilities that combust coal and/or oil for the purpose of generating power for distribution in commerce
- 4953, RCRA Subtitle C hazardous waste treatment and disposal facilities
- 5169, chemicals and allied products wholesale distributors
- 5171, petroleum bulk plants and terminals
- 7389, solvent recovery services, and
- Federal facilities in any SIC code

To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions at 40 CFR part 372 and section 4(a) of the Supporting Statement of the information collection. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. How Can I Get Additional Information or Copies of This Document and Other Support Documents

A. *Electronic Availability:* Electronic copies of this Notice and the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (*http://www.epa.gov/fedrgstr/*). An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at *http://www.epa.gov/triinter/#forms.*

B. *In Person:* The Agency has established an official record for this action under docket control number OEI–10016. 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 TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099. The TSCA Nonconfidential Information Center will close from August 12–27, 2002. The Center will move to the EPA West Building basement at 1301 Constitution Avenue, NW., Washington, DC. For more information on how to access the information, contact James Wanzer at (202) 566–0729.

III. What Does This Notice Do?

This Notice corrects an error published in the **Federal Register** of July 1, 2002, (67 FR 44197) (FRL–6723–9), concerning a notice announcing that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12: Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting (EPA ICR No. 1704.06, OMB No. 2070–0143). This ICR covers the reporting and record keeping requirements associated with reporting under the alternate threshold for reporting to the Toxics Release Inventory (TRI), which appear in 40 CFR part 372. The location for the Document Control Office (DCO), where comments may be submitted in person or by courier was incorrectly listed. Also, this notice announces that the TSCA Nonconfidential Information Center, North East Mall, Room B–607, Waterside Mall, 401 M Street, SW, Washington, DC, will be closed from August 12–27, 2002. The Center will move to the EPA West Building basement, 1301 Constitution Avenue, NW, Washington, DC. This center contains the public version of the official record which is available for inspection. Because of these corrections, EPA is extending the comment period by 7 days. Comments concerning EPA's notice announcing its plan to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12: Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting (EPA ICR No. 1704.06, OMB No. 2070–0143) are due on or before September 6, 2002. The comment period for the proposed rule was initially scheduled to close on August 30, 2002. The following is the corrected information on how to submit comments for EPA's ICR renewal notice.

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (*i.e.,* ''OEI–10016'') in your correspondence.

1. *By mail.* All comments should be sent in triplicate to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Ariel Rios Building, Washington, DC 20460.

2. *In person or by courier.* Comments may be delivered in person or by courier to: OPPT Document Control Office (DCO) in the EPA East Building, Room 6428, 1201 Constitution Avenue, NW, Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* Submit your comments electronically by e-mail to: oppt.ncic@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI–10016. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want to Submit to the Agency?

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does

not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

List of Subjects in 40 CFR Part 372

Environmental protection, Information collection requests, Reporting and recordkeeping requirements.

Dated: July 5, 2002.

Elaine G. Stanley,

Director, Office of Information Analysis and Access, Office of Environmental Information.

[FR Doc. 02–17687 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7245–4]

EPA Science Advisory Board, Notification of Public Advisory Committee Meetings; Metals Assessment Panel

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of three conference call meetings of Metals Assessment Panel of the US EPA Science Advisory Board (SAB). These conference call meetings are preparatory for a face-to-face meeting to be held September 10–12 in or near Washington DC. Once the location is known, the face-to-face meeting will be the subject of a separate announcement. The Panel will hold conference calls on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. For teleconference meetings, available lines may also be limited.

Important Notice: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

Background

The EPA Science Advisory Board (SAB, Board) announced in 67 FR 38957–38959, June 6, 2002 that it had been asked to undertake a review of EPA's draft Action Plan for the ''Framework for Metals Assessment and Cross-Agency Guidance for Assessing Metals-Related Hazard and Risk.'' The background, charge, and description of the review documents appear in the above referenced **Federal Register** notice and are also available at the SAB website *(www.epa.gov/sab)*. The notice also included a call for nominations for members of the panel in certain technical expertise areas needed to address the charge and described the process to be used in forming the panel. A Short List of individuals from which the panel will be chosen has been posted at the SAB's website.

The following three teleconference meetings will be hosted out of Conference Room 6013, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meetings are all open to the public, but, due to limited space, seating will be on a first-come basis. The SAB Staff encourages members of the public who plan to attend any or all of the three meetings in person to call a few days in advance of that meeting and to arrive at least 15 minutes before the scheduled start time so that the necessary building security requirements can be accommodated before the start of the meeting. The public may also attend the teleconference meetings via telephone, however, lines may be limited. For further information concerning the meetings or how to obtain the teleconference phone number, please contact the individuals listed at the end of this FR notice.

1. Metals Assessment Panel—August 8, 2002 Teleconference

The Metals Assessment Panel will meet on August 8, 2002 by teleconference from 2 p.m. to 4 p.m. Eastern Time.

Purpose of the Meeting—The purpose of this public teleconference meeting is to: (a) Discuss the charge and review materials provided to the Metals Assessment Panel; (b) to clarify any questions relating to the charge and the review materials; (c) to discuss specific charge assignments to the panelists; and (d) to clarify specific points of interest raised by the Panelists in preparation for the face-to-face meeting to be held on September 10–12, 2002.

See below for availability of review materials, the charge to the review panel, and contact information.

2. Metals Assessment Panel—August 15, 2002 Teleconference

The Metals Assessment Panel will meet on August 15, 2002 by teleconference from 2 p.m. to 4 p.m. Eastern Time.

Purpose of the Meeting—The purpose of this public teleconference meeting is to: (a) Hear invited presentations; (b) to hear public comment; (c) to provide an opportunity for panel discussion; and (d) to identify areas where the Panel would welcome additional input.

See below for availability of review materials, the charge to the review panel, and contact information.

3. Metals Assessment Panel—August 29, 2002 Teleconference

The Metals Assessment Panel will meet on August 29, 2002 by teleconference from 2 p.m. to 4 p.m. Eastern Time.

Purpose of the Meeting—The purpose of this public teleconference meeting is to: (a) Allow panelists to identify points they think should be addressed in the Panel's report; (b) provide other panelists with an opportunity to add to or correct those points; and (c) identify for the Agency and the Public any areas where the panel would welcome additional information or comment.

See below for availability of review materials, the charge to the review panel, and contact information.

FOR FURTHER INFORMATION CONTACT: Persons desiring information about public participation in the meetings identified above must contact Kathleen White, Designated Federal Officer, Metals Assessment Panel, USEPA Science Advisory Board (1400A), Suite 6450Z, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4559; fax at (202) 501–0582; or via e-mail at *white.kathleen@epa.gov*. Requests for oral comments must be made *in writing* (e-mail, fax or mail) and received by Ms. White no later than noon Eastern Time on the following dates: for the August 8 teleconference call, requests must be received by August 1st; for the August 15 teleconference call, requests must be received by August 8; for the August 29 conference call, requests must be received by August 22.

The public is encouraged to provide written comments. Those who prefer to provide oral comments are encouraged to schedule them for August 15. The oral public comment period will be limited and divided among the speakers who register. Additional opportunities for public comment will be available at the face to face meeting to be held September 10–12. Registration is on a first come basis. Speakers who have been granted time on the agenda may not yield their time to other speakers. Speakers who are unable to register in time may provide their comments in writing.

Members of the public desiring additional information about the meeting locations or the call-in number for the teleconference before June 30, 2002, must contact Ms.Zisa Lubarov-Walton, Management Assistant, EPA

Science Advisory Board (1400A), Suite 6450N, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4537; fax at (202) 501–0582; or via e-mail at *lubarov-walton.zisa@epa.gov*

A copy of the draft agenda for each meeting will be posted on the SAB Website *(www.epa.gov/sab)* (under the AGENDAS subheading) approximately 10 days before that meeting.

Availability of Review Material—There is one primary document that is the subject of the review. The draft Metals Action Plan is available on the EPA Risk Assessment Forum's website: *http://www.epa.gov/ncea/raf/rafpub.htm.* The review document is also available electronically at the following site *http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=4580* For questions and information pertaining to the review documents, please contact Dr. Bill Wood (Mail Code 8601D), U.S. Environmental Protection Agency, Washington, DC 20460; tel. (202) 564–3358, e-mail: *wood.bill@epa.gov.* Dr. Wood will refer you to the appropriate contact for the particular issue of interest.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Ms. White at least five business days prior to the meeting so that appropriate arrangements can be made.

General Information—Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website *(http://www.epa.gov/sab)* and in the *Science Advisory Board FY2001 Annual Staff Report* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: July 9, 2002.

Robert Flaak,

Acting Deputy Director, EPA Science Advisory Board.

[FR Doc. 02–17691 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7245–9]

EPA Science Advisory Board; Notification of Public Advisory Committee Teleconference Meeting

Summary—Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Environmental Economics Advisory Committee (EEAC) of the EPA Science Advisory Board (SAB), a chartered Federal advisory committee, is announcing that it will meet in a public teleconference on August 12, 2002 from 1 p.m. to 3 p.m. Eastern Time. The meeting will be hosted in Conference Room 6013, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The meeting is open to the public, however, due to limited space, seating will be on a first-come basis. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed below.

Purpose of the Teleconference—At the planned teleconference, the EEAC will continue their discussions on the EPA affordability criteria under the Safe Drinking Water Act as amended in 1996. The Committee began its discussions of this issue at its June 13, 2002 meeting, held at the Holiday Inn, Alexandria, Virginia (*see* 67 FR 20765–20767, April 26, 2002 for additional background information on this meeting).

FOR FURTHER INFORMATION: Members of the public desiring additional information about the meeting, must contact Mr. Thomas Miller, Designated Federal Officer, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4558; fax at (202) 501–0323; or via e-mail at *miller.tom@epa.gov*. A copy of the draft agenda will be posted on the SAB Website (*http://www.epa.gov/sab*) (under the AGENDAS subheading) approximately 10 days before the meeting.

Members of the public desiring additional information about the meeting location or the call-in number, must contact Ms. Diana Pozun, Program Specialist, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4544; fax at (202) 501–0323; or via e-mail at *pozun.diana@epa.gov*.

Oral Comments—The SAB will have a brief period (no more than 15 minutes) available during the Teleconference meeting for applicable public comment. Members of the public who wish to make a brief oral presentation must contact Mr. Miller in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Monday, August 5, 2002, in order to be included on the Agenda. The oral public comment period will be limited to 15 minutes divided among the speakers who register. Registration is on a first come basis, allowing approximately three to five minutes per speaker or organization. Speakers who are unable to register in time, may provide their comments in writing.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, for conference call meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen

minutes total, unless otherwise stated. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until two days following the date of the meeting (unless otherwise stated above), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file formats: WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on our Website (*http://www.epa.gov/sab*) and in the just-released EPA Science Advisory Board FY2001 Annual Staff Report—Expanding Expertise and Experience which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Miller at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: July 9, 2002.

Vanessa Vu,

Director, EPA Science Advisory Board.

[FR Doc. 02–17699 Filed 7–12–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Tuesday, July 16, 2002

July 9, 2002.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, Juy 16, 2002, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Wireline Competition	Title: Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information (CC Docket No. 96–115); and Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, As Amended (CC Docket No. 96–149).
3	Wireless Telecommunications.	Title: The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010 (WT Docket No. 96–86). Summary: The Commission will consider a Fifth Report and Order concerning the migration to 6.25 kHz spectral efficiency in the 700 MHz public safety band.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@aol.com.*

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <*http://www.fcc.gov/realaudio/*>. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–17791 Filed 7–11–02; 11:07 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2001–N–7]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2002–03 second quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the 2002–03 second quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before August 30, 2002.

ADDRESSES: Bank members selected for the 2002–03 second quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Office of Policy, Research and Analysis, Program Assistance Division, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, or by electronic mail at *fitzgerald@fhfb.gov.*

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Policy, Research and Analysis, Program Assistance Division, by telephone at 202/408–2874, by electronic mail at *fitzgerald@fhfb.gov,* or by regular mail at the Federal Housing

Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901, *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the August 30, 2002 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before July 29, 2002, each Bank will notify the members in its district that have been selected for the 2002–03 second quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: *www.fhfb.gov.* Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2002–03 second quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Superior Savings of New England, National Association	Branford	Connecticut
Enfield Federal Savings and Loan Association	Enfield	Connecticut
Essex Savings Bank	Essex	Connecticut
First City Bank	New Britain	Connecticut
Citizens Bank of Connecticut	New London	Connecticut
Auburn Savings & Loan	Auburn	Maine
First National Bank of Bar Harbor	Bar Harbor	Maine
First FS&LA of Bath	Bath	Maine
Aroostook County FS&LA	Caribou	Maine
Kennebunk Savings Bank	Kennebunk	Maine
Community Credit Union	Lewiston	Maine
Portland Regional Federal Credit Union	Portland	Maine
Skowhegan Savings Bank	Skowhegan	Maine
Kennebec Federal Savings and Loan Association	Waterville	Maine
North Middlesex Savings Bank	Ayer	Massachusetts
Boston Private Bank & Trust Company	Boston	Massachusetts
First Trade Union Bank, F.S.B	Boston	Massachusetts
First Federal Savings Bank of Boston	Boston	Massachusetts
Investors Bank & Trust Company	Boston	Massachusetts
Peoples Federal Savings Bank	Brighton	Massachusetts
Cambridge Savings Bank	Cambridge	Massachusetts
East Cambridge Savings Bank	Cambridge	Massachusetts
Dedham Institution for Savings	Dedham	Massachusetts
Eagle Bank	Everett	Massachusetts
Citizens-Union Savings Bank	Fall River	Massachusetts
Foxboro Federal Savings	Foxboro	Massachusetts
Georgetown Savings Bank	Georgetown	Massachusetts
Hyde Park Savings Bank	Hyde Park	Massachusetts
First Essex Bank	Lawrence	Massachusetts
Marblehead Savings Bank	Marblehead	Massachusetts
Medford Co-operative Bank	Medford	Massachusetts
Plymouth Savings Bank	Middleboro	Massachusetts
Millbury Savings Bank	Millbury	Massachusetts
Monson Savings Bank	Monson	Massachusetts
Lawrence Savings Bank	North Andover	Massachusetts
Warren Five Cents Savings Bank	Peabody	Massachusetts
Saugus Bank, A Cooperative Bank	Saugus	Massachusetts
Scituate Federal Savings Bank	Scituate	Massachusetts
Middlesex Federal Savings, F.A.	Somerville	Massachusetts
Spencer Savings Bank	Spencer	Massachusetts
Hampden Savings Bank	Springfield	Massachusetts
Bristol County Savings Bank	Taunton	Massachusetts

Federal Savings Bank	Dover	New Hampshire
Franklin Savings Bank	Franklin	New Hampshire
Meredith Village Savings Bank	Meredith	New Hampshire
Salem Co-operative Bank	Salem	New Hampshire
First Brandon National Bank	Brandon	Vermont
Randolph National Bank	Randolph	Vermont

Federal Home Loan Bank of New York—District 2

Liberty Bank	Avenel	New Jersey
Pamrapo Savings Bank, S.L.A.	Bayonne	New Jersey
Farmers & Mechanics Bank	Burlington	New Jersey
Freehold Savings & Loan Association	Freehold	New Jersey
Spencer Savings Bank, SLA	Garfield	New Jersey
GSL Savings Bank	Guttenberg	New Jersey
Oritani Savings Bank	Hackensack	New Jersey
Investors Savings Bank	Millburn	New Jersey
Millington Savings Bank	Millington	New Jersey
Dollar Savings Bank	Newark	New Jersey
Ocean City Home Bank	Ocean City	New Jersey
Amboy National Bank	Old Bridge	New Jersey
OceanFirst Bank	Tom Rivers	New Jersey
First Savings Bank	Woodbridge	New Jersey
Brooklyn Federal Savings Bank	Brooklyn	New York
Canisteo Savings & Loan Association	Canisteo	New York
Elmira Savings & Loan, F.A	Elmira	New York
The Upstate National Bank	Fayetteville	New York
The National Bank of Geneva	Geneva	New York
Glens Falls National Bank and Trust Company	Glens Falls	New York
Maple City Savings Bank, FSB	Hornell	New York
Sunnyside FS&LA of Irvington	Irvington	New York
The Lyons National Bank	Lyons	New York
Maspeth Federal Savings and Loan Association	Maspeth	New York
Massena Savings & Loan	Massena	New York
Cross County Federal Savings Bank	Middle Village	New York
Provident Bank	Montebello	New York
Carver Federal Savings	New York	New York
The Berkshire Bank	New York	New York
Ogdensburg Federal Savings and Loan Association	Ogdensburg	New York
Wilber National Bank	Oneonta	New York
Union State Bank	Orangeburg	New York
First Tier Bank & Trust	Salamanca	New York
Saratoga National Bank & Trust Company	Saratoga Springs	New York
The National Bank of Stamford	Stamford	New York

Federal Home Loan Bank of Pittsburgh—District 3

Delaware National Bank	Georgetown	Delaware
Artisans' Bank	Wilmington	Delaware
Laurel Savings Bank	Allison Park	Pennsylvania
Investment Savings Bank	Altoona	Pennsylvania
Reliance Savings Bank	Altoona	Pennsylvania
Peoples Home Savings Bank	Beaver Falls	Pennsylvania
Keystone Savings Bank	Bethlehem	Pennsylvania
Columbia County Farmers National Bank	Bloomsburg	Pennsylvania
The Bryn Mawr Trust Company	Bryn Mawr	Pennsylvania
Community Bank, National Association	Carmichaels	Pennsylvania
Charleroi Federal Savings Bank	Charleroi	Pennsylvania
Citizens National Bank of Evans City	Evans City	Pennsylvania
Armstrong County Building and Loan Association	Ford City	Pennsylvania
Greenville Savings Bank	Greenville	Pennsylvania
Westmoreland FS&LA of Latrobe	Latrobe	Pennsylvania
Mifflin County Savings Bank	Lewistown	Pennsylvania
First Citizens National Bank	Mansfield	Pennsylvania
First National Bank of Mifflintown	Mifflintown	Pennsylvania
First Federal Savings Bank	Monessan	Pennsylvania
Parkvale Bank	Monroeville	Pennsylvania
Community State Bank of Orbisonia	Orbisonia	Pennsylvania
Beneficial Savings Bank	Philadelphia	Pennsylvania
Firstrust Bank	Philadelphia	Pennsylvania
Prudential Savings Bank, PaSA	Philadelphia	Pennsylvania
NorthSide Bank	Pittsburgh	Pennsylvania
West View Savings Bank	Pittsburgh	Pennsylvania
Liberty Savings Bank, F.S.B	Pottsville	Pennsylvania
Elk County Savings & Loan Association	Ridgway	Pennsylvania
Sewickley Savings Bank	Sewickley	Pennsylvania

Keystone State Savings Bank	Sharpsburg	Pennsylvania
The First National Bank of Slippery Rock	Slippery Rock	Pennsylvania
Union National Bank and Trust Company	Souderton	Pennsylvania
East Stroudsburg Savings Association	Stroudsburg	Pennsylvania
Washington Federal Savings Bank	Washington	Pennsylvania
First FS&LA of Greene County	Waynesburg	Pennsylvania
Citizens & Northern Bank	Wellsboro	Pennsylvania
First Century Bank, N.A	Bluefield	West Virginia
Huntington Federal Savings Bank	Huntington	West Virginia
Doolin Security Savings Bank FSB	New Martinsville	West Virginia
United National Bank	Parkersburg	West Virginia
First FS&LA of Ravenswood	Ravenswood	West Virginia
First Federal Savings Bank	Sistersville	West Virginia
The Williamstown National Bank	Williamstown	West Virginia

Federal Home Loan Bank of Atlanta— District 4

Brantley Bank and Trust Company	Brantley	Alabama
Bank of Carbon Hill	Carbon Hill	Alabama
Heritage Bank	Decatur	Alabama
Robertson Banking Company	Demopolis	Alabama
The Citizens Bank	Greensboro	Alabama
Security Federal Savings Bank	Jasper	Alabama
Gulf Federal Bank, a FSB	Mobile	Alabama
Loyal American Life Insurance Company	Mobile	Alabama
The Citizens Bank	Moulton	Alabama
Phenix-Girard Bank	Phenix City	Alabama
The Bank of Vernon	Vernon	Alabama
Bank of Wedowee	Wedowee	Alabama
Bank of Belle Glade	Belle Glade	Florida
Community Bank of Manatee	Bradenton	Florida
Commercebank, N.A	Coral Gables	Florida
Peoples State Bank of Groveland	Groveland	Florida
Florida Bank, N.A	Jacksonville	Florida
First State Bank of Florida Keys	Key West	Florida
International Finance Bank	Miami	Florida
Charlotte State Bank	Port Charlotte	Florida
First American Bank of Walton County	Santa Rosa Beach	Florida
Bank of St. Augustine	St. Augustine	Florida
Central Bank of Tampa	Tampa	Florida
Wauchula State Bank	Wauchula	Florida
Cornerstone Bank	Atlanta	Georgia
ebank	Atlanta	Georgia
Bank of Early	Blakely	Georgia
Colony Bank Southeast	Broxton	Georgia
The Claxton Bank	Claxton	Georgia
United Community Bank Rabun County	Clayton	Georgia
Central Bank and Trust	Cordele	Georgia
Chestatee State Bank	Dawsonville	Georgia
Bank of Eastman	Eastman	Georgia
Gilmer County Bank	Ellijay	Georgia
Capital Bank	Fort Oglethorpe	Georgia
Bank of Hiawassee	Hiawassee	Georgia
Farmers State Bank	Lincolnton	Georgia
Peoples Bank	Lyons	Georgia
Mount Vernon Bank	Mt. Vernon	Georgia
The Citizens Bank	Nashville	Georgia
Colony Bank of Wilcox	Rochelle	Georgia
Greater Rome Bank	Rome	Georgia
Georgia Central Bank	Social Circle	Georgia
Citizens Security Bank	Tifton	Georgia
Community First Bank	Baltimore	Maryland
Mercantile Safe Deposit and Trust Company	Baltimore	Maryland
Easton Bank and Trust Company	Easton	Maryland
Jarrettsville Federal S&L Association	Jarrettsville	Maryland
Maryland Bank and Trust Company	Lexington Park	Maryland
First National Bank of North East	North East	Maryland
Colombo Bank	Rockville	Maryland
The East Carolina Bank	Engelhard	North Carolina
Catawba Valley Bank	Hickory	North Carolina
First Bank	Troy	North Carolina
Sandhills Bank	Bethune	South Carolina
The Peoples Bank	Iva	South Carolina
Carolina Community Bank, N.A	Latta	South Carolina
The Palmetto Bank	Laurens	South Carolina
The Citizens Bank	OlantaS	outh Carolina

First State Bank	Danville	Virginia
Powell Valley National Bank	Jonesville	Virginia
The Bank of Charlotte County	Phenix	Virginia
Valley Bank	Roanoke	Virginia

Federal Home Loan Bank of Cincinnati—District 5

Bank of Edmonson County.		
Brownsville	Kentucky.	
United Citizens Bank	Campbellsburg	Kentucky
Citizens Bank & Trust Company	Campbellsville	Kentucky
Farmers and Traders Bank	Campton	Kentucky
Carrollton Federal Savings & Loan Association	Carrollton	Kentucky
First National Bank	Central City	Kentucky
Clinton Bank	Clinton	Kentucky
Peoples Bank of Northern Kentucky	Crestview Hills	Kentucky
Farmers National Bank	Cynthiana	Kentucky
Central Kentucky Federal Savings Bank	Danville	Kentucky
United Kentucky Bank of Pendleton County	Falmouth	Kentucky
State Bank and Trust Company	Harrodsburg	Kentucky
First Financial Bank	Harrodsburg	Kentucky
First Federal Savings and Loan Association	Hazard	Kentucky
Citizens National Bank	Lebanon	Kentucky
Home Federal Bank, FSB	Middlesboro	Kentucky
Peoples Bank Mt. Washington	Mt. Washington	Kentucky
Family Bank, FSB	Paintsville	Kentucky
Farmers Bank and Trust Company, Inc.	Princeton	Kentucky
First Bank and Trust Company	Princeton	Kentucky
Liberty National Bank	Ada	Ohio
The Peoples Savings and Loan Company	Bucyrus	Ohio
First Safety Bank	Cincinnati	Ohio
The Clifton Heights Loan and Building Company	Cincinnati	Ohio
The Savings Bank	Circleville	Ohio
The Peoples Bank Company	Coldwater	Ohio
First City Bank	Columbus	Ohio
The Cortland Savings and Banking Company	Cortland	Ohio
Ohio Heritage Bank	Coshocton	Ohio
Heartland Bank	Croton	Ohio
Valley Savings Bank	Cuyahoga Falls	Ohio
First Federal Bank of the Midwest	Defiance	Ohio
Fidelity Federal Savings & Loan Association of Delaware	Delaware	Ohio
The Home Building and Loan Company	Greenfield	Ohio
Greenville Federal Savings & Loan Association	Greenville	Ohio
First Federal Savings Bank	Ironton	Ohio
Lawrence Federal Savings Bank	Ironton	Ohio
Liberty Federal Savings Bank	Ironton	Ohio
Ohio River Bank	Ironton	Ohio
Home Savings and Loan Company of Kenton, Ohio	Kenton	Ohio
Kingston National Bank	Kingston	Ohio
The Citizens Bank of Logan	Logan	Ohio
Mechanics Savings Bank	Mansfield	Ohio
Peoples Bank, National Association	Marietta	Ohio
The Middlefield Banking Company	Middlefield	Ohio
Nelsonville Home and Savings Association	Nelsonville	Ohio
First FS&LA of Newark	Newark	Ohio
The National Bank of Oak Harbor	Oak Harbor	Ohio
Valley Central Savings Bank	Reading	Ohio
The Citizens Banking Company	Sandusky	Ohio
Peoples Federal Savings & Loan Association	Sidney	Ohio
Commodore Bank	Somerset	Ohio
Monroe Federal Savings and Loan Association	Tipp City	Ohio
Van Wert Federal Savings Bank	Van Wert	Ohio
Home Savings Bank of Wapakoneta	Wapakoneta	Ohio
The Waterford Commercial & Savings Bank	Waterford	Ohio
Adams County Building & Loan Company	West Union	Ohio
Bank of Bartlett	Bartlett	Tennessee
Bank of Bolivar	Bolivar	Tennessee
Farmers & Merchants Bank	Clarksville	Tennessee
Farmers and Merchants Bank	Dyer	Tennessee
First Citizens National Bank	Dyersburg	Tennessee
Elizabethton Federal Savings Bank	Elizabethton	Tennessee
Progressive Savings Bank	Jamestown	Tennessee
Home Federal Bank of Tennessee	Knoxville	Tennessee
First Central Bank	Lenoir City	Tennessee
American Savings Bank	Livingston	Tennessee
Volunteer Federal Savings & Loan Association	Madisonville	Tennessee

Jefferson Federal Savings & Loan Association	Morristown	Tennessee
TNBank	Oak Ridge	Tennessee
Union Planters Bank of N.W. Tennessee	Paris	Tennessee
Citizens Community Bank	Winchester	Tennessee

Federal Home Loan Bank of Indianapolis—District 6

First Federal Savings Bank of Angola	Angola	Indiana
Peoples Federal Savings Bank of Dekalb County	Auburn	Indiana
Peoples Federal Savings Bank	Aurora	Indiana
Farmers and Mechanics FS&LA	Bloomfield	Indiana
The First State Bank	Bourbon	Indiana
English State Bank	English	Indiana
Old National Bank in Evansville	Evansville	Indiana
Home Loan Bank, FSB	Fort Wayne	Indiana
The Farmers Bank	Frankfort	Indiana
Newton County Loan & Savings, FSB	Goodland	Indiana
First Federal Savings & Loan	Greensburg	Indiana
Lake FS&LA of Hammond	Hammond	Indiana
HFS Bank, F.S.B.	Hobart	Indiana
Security Federal Savings Bank	Logansport	Indiana
Michigan City Savings & Loan Association	Michigan City	Indiana
The First National Bank of Monterey	Monterey	Indiana
First Merchants Bank, N.A.	Muncie	Indiana
Mutual Federal Savings Bank	Muncie	Indiana
American Savings, FSB	Munster	Indiana
Community Bank	Noblesville	Indiana
First National Bank of Odon	Odon	Indiana
Lincoln Federal Savings Bank	Plainfield	Indiana
First Parke State Bank	Rockville	Indiana
Scottsburg Building & Loan Association	Scottsburg	Indiana
Home Federal Savings Bank	Seymour	Indiana
Owen Community Bank, SB	Spencer	Indiana
First Farmers State Bank	Sullivan	Indiana
Peoples Community Bank	Tell City	Indiana
Terre Haute First National Bank	Terre Haute	Indiana
First Federal Savings Bank of Wabash	Wabash	Indiana
First FS&LA of Washington	Washington	Indiana
Home Building Savings Bank, FSB	Washington	Indiana
Peoples National Bank & Trust Company	Washington	Indiana
Bank of Wolcott	Wolcott	Indiana
First Federal of Northern Michigan	Alpena	Michigan
Bank of Ann Arbor	Ann Arbor	Michigan
Farmers State Bank Breckenridge	Breckenridge	Michigan
Eaton Federal Savings Bank	Charlotte	Michigan
Huron Community Bank	East Tawas	Michigan
The Hastings City Bank	Hastings	Michigan
Bay Port State Bank	Pigeon	Michigan
Kalamazoo County State Bank	Schoolcraft	Michigan
Franklin Bank, National Association	Southfield	Michigan
First National Bank of St. Ignace	St. Ignace	Michigan
Northwestern Savings Bank and Trust	Traverse City	Michigan

Federal Home Loan Bank of Chicago—District 7

West Pointe Bank and Trust Company	Belleville	Illinois
The Belvidere National Bank and Trust Company	Belvidere	Illinois
Citizens Savings Bank	Bloomington	Illinois
American Enterprise Bank	Buffalo Grove	Illinois
Farmers State Bank of Camp Point	Camp Point	Illinois
Cornerstone Bank & Trust, N.A.	Carrollton	Illinois
Central Illinois Bank	Champaign	Illinois
First Federal Savings Bank of Champaign-Urbana	Champaign	Illinois
Charleston Federal Savings & Loan Association	Charleston	Illinois
Broadway Bank	Chicago	Illinois
Universal Federal Savings Bank	Chicago	Illinois
Central FS&LA of Chicago	Chicago	Illinois
Columbus Savings Bank	Chicago	Illinois
Fidelity Federal Savings Bank	Chicago	Illinois
Liberty Bank for Savings	Chicago	Illinois
Lincoln Park Savings Bank	Chicago	Illinois
Mutual FS&LA	Chicago	Illinois
1st Security Federal Savings Bank	Chicago	Illinois
Collinsville Building and Loan Association	Collinsville	Illinois
Home Federal Savings & Loan Association	Collinsville	Illinois
Hickory Point Bank & Trust, fsb	Decatur	Illinois

CoVest Banc, National Association	Des Plaines	Illinois
First Federal Savings & Loan Association	Edwardsville	Illinois
Forreston State Bank	Forreston	Illinois
Central Bank Fulton	Fulton	Illinois
Glenview State Bank	Glenview	Illinois
Guardian Savings Bank FSB	Granite City	Illinois
First National Bank of Grant Park	Grant Park	Illinois
The Granville National Bank	Granville	Illinois
The Bradford National Bank of Greenville	Greenville	Illinois
The Havana National Bank	Havana	Illinois
Herrin Security Bank	Herrin	Illinois
CIB Bank	Hillside	Illinois
South End Savings, s.b	Homewood	Illinois
1st National Bank of Jonesboro	Jonesboro	Illinois
Eureka Savings Bank	La Salle	Illinois
First State Bank of Western Illinois	LaHarpe	Illinois
First National Bank of Illinois	Lansing	Illinois
Lisle Savings Bank	Lisle	Illinois
First National Bank of Litchfield, IL	Litchfield	Illinois
West Suburban Bank	Lombard	Illinois
First Security Bank	Macknaw	Illinois
First National Bank of Manhattan	Manhattan	Illinois
Milford Building & Loan Association	Milford	Illinois
Nashville Savings Bank	Nashville	Illinois
Northview Bank & Trust	Northfield	Illinois
Illini State Bank	Oglesby	Illinois
Peoples Bank & Trust	Pana	Illinois
The Poplar Grove State Bank	Poplar Grove	Illinois
Citizens First National Bank	Princeton	Illinois
First Robinson Savings Bank, N.A	Robinson	Illinois
Alpine Bank of Illinois	Rockford	Illinois
First FS&LA of Shelbyville, IL	Shelbyville	Illinois
The First National Bank	Vandalia	Illinois
International Bank of Amherst	Amherst	Wisconsin
First National Bank of Bangor	Bangor	Wisconsin
Bank of Brodhead	Brodhead	Wisconsin
Bank of Deerfield	Deerfield	Wisconsin
Meridian Capital Bank, N.A	Edgar	Wisconsin
Fox Valley Savings	Fond du Lac	Wisconsin
National Exchange Bank & Trust	Fond du Lac	Wisconsin
First Northern Savings Bank	Green Bay	Wisconsin
Ixonia State Bank	Ixonia	Wisconsin
First Federal Savings Bank La Crosse-Madison	La Crosse	Wisconsin
Ladysmith Federal Savings & Loan	Ladysmith	Wisconsin
Markesan State Bank	Markesan	Wisconsin
Fidelity National Bank	Medford	Wisconsin
Merrill Federal Savings and Loan Association	Merrill	Wisconsin
Continental Savings Bank, S.A	Milwaukee	Wisconsin
Guaranty Bank, S.S.B	Milwaukee	Wisconsin
Bank of Elmwood	Racine	Wisconsin
Spencer State Bank	Spencer	Wisconsin
First Bank	Tomah	Wisconsin
Farmers State Bank of Waupaca	Waupaca	Wisconsin
Paper City Savings Association	Wisconsin Rapids	Wisconsin
		xxxxxxxxxxxxxxxxx-xxx

Federal Home Loan Bank of Des Moines—District 8

Citizens Savings Bank	Anamosa	Iowa
Community State Bank	Ankeny	Iowa
Ashton State Bank	Ashton	Iowa
Atkins Savings Bank & Trust	Atkins	Iowa
Midwest FS&LA of Eastern Iowa	Burlington	Iowa
Iowa Trust and Savings Bank	Centerville	Iowa
First Security Bank and Trust	Charles City	Iowa
Page County Federal Savings Association	Clarinda	Iowa
First Federal Savings Bank of Creston, F.S.B	Creston	Iowa
Principal Bank	Des Moines	Iowa
State FS&LA of Des Moines	Des Moines	Iowa
Fidelity Bank & Trust	Dyersville	Iowa
Community Savings Bank	Edgewood	Iowa
First American Bank	Fort Dodge	Iowa
Hampton State Bank	Hampton	Iowa
Independence Federal Bank for Savings	Independence	Iowa
Hawkeye State Bank	Iowa City	Iowa

First Community Bank, FSB	Keokuk	Iowa
Keokuk Savings Bank & Trust Company	Keokuk	Iowa
Keystone Savings Bank	Keystone	Iowa
Iowa State Savings Bank	Knoxville	Iowa
Cedar Valley Bank & Trust	LaPorte City	Iowa
Farmers & Merchants Savings Bank	Lone Tree	Iowa
United Community Bank	Milford	Iowa
New Albin Savings Bank	New Albin	Iowa
City State Bank	Norwalk	Iowa
Northwestern State Bank	Orange City	Iowa
Clarke County State Bank	Osceola	Iowa
Bank Iowa	Oskaloosa	Iowa
First Trust & Savings Bank	Oxford	Iowa
Citizens State Bank	Pocahontas	Iowa
Citizens Bank	Sac City	Iowa
American State Bank	Sioux Center	Iowa
Solon State Bank	Solon	Iowa
Northwest Federal Savings Bank	Spencer	Iowa
First Federal Savings Bank of the Midwest	Storm Lake	Iowa
Randall-Story State Bank	Story City	Iowa
Waukee State Bank	Waukee	Iowa
West Liberty State Bank	West Liberty	Iowa
Viking Savings Association, F.A	Alexandria	Minnesota
Northern National Bank	Baxter	Minnesota
First State Bank of Bigfork	Bigfork	Minnesota
Brainerd Savings & Loan	Brainerd	Minnesota
The Oakley National Bank of Buffalo	Buffalo	Minnesota
State Bank in Eden Valley	Eden Valley	Minnesota
Bank Midwest Minnesota Iowa, N.A	Fairmont	Minnesota
The State Bank of Faribault	Faribault	Minnesota
First Minnesota Bank, N.A	Glencoe	Minnesota
The First National Bank of Menahga	Menahga	Minnesota
TCF National Bank	Minneapolis	Minnesota
The First National Bank of Osakis	Osakis	Minnesota
First National Bank of Plainview	Plainview	Minnesota
Signal Bank South, NA	Red Wing	Minnesota
21st Century Bank	Rogers	Minnesota
Citizens Independent Bank	St. Louis Park	Minnesota
The First National Bank of St. Peter	St. Peter	Minnesota
Tracy State Bank	Tracy	Minnesota
Queen City Federal Savings Bank	Virginia	Minnesota
Missouri Federal Savings Bank	Cameron	Missouri
Southwest Missouri Bank	Carthage	Missouri
North American Savings Bank, FSB	Grandview	Missouri
MCM Savings Bank, FSB	Hannibal	Missouri
First Federal Bank, F.S.B	Kansas City	Missouri
Lacelde County Bank	Lebanon	Missouri
Clay County Savings & Loan Association	Liberty	Missouri
Liberty Savings Bank, F.S.B	Liberty	Missouri
First Home Savings Bank	Mountain Grove	Missouri
Home S&LA of Norborne, F.A	Norborne	Missouri
Southern Missouri Bank & Trust	Poplar Bluff	Missouri
Central Federal Savings and Loan Association	Rolla	Missouri
Montgomery First National Bank	Sikeston	Missouri
Guaranty Federal Savings Bank	Springfield	Missouri
Midwest FS&LA of St. Joseph	St. Joseph	Missouri
Bremen Bank and Trust Company	St. Louis	Missouri
First Bank	St. Louis	Missouri
Lindell Bank & Trust Company	St. Louis	Missouri
Southern Commercial Bank	St. Louis	Missouri
BNC National Bank	Bismarck	North Dakota
First Southwest Bank	Bismarck	North Dakota
Ramsey National Bank & Trust Company	Devils Lake	North Dakota
American State Bank and Trust of Dickinson	Dickinson	North Dakota
Security State Bank	Dunseith	North Dakota
First National Bank North Dakota	Grand Forks	North Dakota
National Bank of Harvey	Harvey	North Dakota
Walhalla State Bank	Walhalla	North Dakota
Dacotah Bank	Aberdeen	South Dakota
First Savings	BankBeresford	South Dakota
First Federal Bank	Beresford	South Dakota
First National Bank in Brookings	Brookings	South Dakota
Bryant State Bank	Bryant	South Dakota

First Western Federal Savings Bank	Rapid City	South Dakota
Federal Home Loan Bank of Dallas—District 9		
First National Bank of Sharp County	Ash Flat	Arkansas
Arkansas National Bank	Bentonville	Arkansas
Heartland Community Bank	Camden	Arkansas
Corning Savings and Loan Association	Corning	Arkansas
Arkansas Diamond Bank	Glenwood	Arkansas
First Arkansas Bank and Trust	Jacksonville	Arkansas
Arkansas Bankers' Bank	Little Rock	Arkansas
Diamond State Bank	Murfreesboro	Arkansas
First National Bank	Paragould	Arkansas
Peoples Bank	Paragould	Arkansas
First Community Bank	Pocahontas	Arkansas
Bank of Rogers	Rogers	Arkansas
Bank of Star City	Star City	Arkansas
Bank of Waldron	Waldron	Arkansas
First National Bank USA	Boutte	Louisiana
Citizens Progressive Bank	Columbia	Louisiana
Beauregard Federal Savings Bank	DeRidder	Louisiana
Home Bank	Lafayette	Louisiana
First FS&LA of Lake Charles, Inc	Lake Charles	Louisiana
Bank of New Orleans	Metairie	Louisiana
Minden Building & Loan Association	Minden	Louisiana
Algiers Homestead Association	New Orleans	Louisiana
Dryades Savings Bank, FSB	New Orleans	Louisiana
Fifth District Savings and Loan Association	New Orleans	Louisiana
Union Savings and Loan Association	New Orleans	Louisiana
Plaquemine Bank & Trust Company	Plaquemine	Louisiana
Rayne Building and Loan Association	Rayne	Louisiana
Citizens Bank and Trust Company	Springhill	Louisiana
First National Bank of Lucedale	Lucedale	Mississippi
First National Bank of Pontotoc	Pontotoc	Mississippi
North Central Bank For Savings	Winona	Mississippi
Alamogordo Federal Savings & Loan Association	Alamogordo	New Mexico
Charter Bank	Albuquerque	New Mexico
First National Bank	Artesia	New Mexico
The First National Bank of New Mexico	Clayton	New Mexico
First National Bank	Las Vegas	New Mexico
First Federal Bank	Roswell	New Mexico
Alamo Bank of Texas	Alamo	Texas
Firstbank Southwest National Association	Amarillo	Texas
First Savings Bank, FSB	Arlington	Texas
Affiliated Bank F.S.B	Bedford	Texas
Brenham National Bank	Brenham	Texas
Texas Bank	Brownwood	Texas
The First State Bank	Celina	Texas
The First National Bank of Chillico	Chillico	Texas
First Bank of West Texas	Coahoma	Texas
The First State Bank	Columbus	Texas
First Bank of Conroe, N.A	Conroe	Texas
First Commerce Bank	Corpus Christi	Texas
Citizens National Bank	Crockett	Texas
Cuero State Bank s.s.b	Cuero	Texas
Dalhart Federal Savings and Loan Association	Dalhart	Texas
Preston National Bank	Dallas	Texas
First State Bank of Texas	Denton	Texas
First Prosperity Bank	El Campo	Texas
Citizens National Bank	Fort Worth	Texas
Colonial Savings, F.A	Fort Worth	Texas
Guaranty National Bank	Gainesville	Texas
National BankGatesville	Texas.	
Planters & Merchants State Bank	Hearne	Texas
Houston Community Bank,	N.A.Houston	Texas
Justin State Bank	Justin	Texas
City National Bank	Kilgore	Texas
Farmers & Merchants State Bank	Krum	Texas
Fayette Savings Bank, ssb	La Grange	Texas
National Bank and Trust	La Grange	Texas
Commerce Bank	Laredo	Texas
Falcon International Bank	Laredo	Texas
East Texas Professional Credit Union	Longview	Texas
Longview Bank and Trust	Longview	Texas
The First State Bank of Louise	Louise	Texas
First Bank & Trust Company	Lubbock	Texas

Lubbock National Bank	Lubbock	Texas
Gladewater National Bank	Mesquite	Texas
First National Bank of Mount Vernon	Mount Vernon	Texas
First National Bank in Munday	Munday	Texas
Morris County National Bank	Naples	Texas
First Federal Community Bank	Paris	Texas
Peoples National Bank	Paris	Texas
Gulf Coast Educators Federal Credit Union	Pasadena	Texas
PointBank, N.A.	Pilot Point	Texas
Pilgrim Bank	Pittsburg	Texas
Wood County National Bank	Quitman	Texas
Robert Lee State Bank	Robert Lee	Texas
Intercontinental National Bank	San Antonio	Texas
Balcones Bank, S.S.B.	San Marcos	Texas
Citizens State Bank	Sealy	Texas
Southern National Bank of Texas	Sugar Land	Texas
The American National Bank of Texas	Terrell	Texas
Citizens First Bank	Tyler	Texas
Hill Bank & Trust Company	Weimar	Texas
American National Bank	Wichita Falls	Texas
Wilson State Bank	Wilson	Texas

Federal Home Loan Bank of Topeka—District 10

San Luis Valley Federal Bank	Alamosa	Colorado
Collegiate Peaks Bank	Buena Vista	Colorado
Pikes Peak National Bank	Colorado Springs	Colorado
Community Banks of Colorado	Cripple Creek	Colorado
Vectra Bank Colorado	Denver	Colorado
Rocky Mountain Bank and Trust	Florence	Colorado
First National Bank, Fort Collins	Fort Collins	Colorado
First State Bank of Fort Collins	Fort Collins	Colorado
Gunnison Savings and Loan Association	Gunnison	Colorado
American Bank	Loveland	Colorado
Rio Grande Savings and Loan Association	Monte Vista	Colorado
Montrose Bank	Montrose	Colorado
The First National Bank of Ordway	Ordway	Colorado
Paonia State Bank	Paonia	Colorado
Community Banks of Southern Colorado	Rocky Ford	Colorado
Century Savings and Loan Association	Trinidad	Colorado
Park State Bank & Trust	Woodland Park	Colorado
Prairie State Bank	Augusta	Kansas
First National Bank in Cimarron	Cimarron	Kansas
Girard National Bank	Girard	Kansas
Farmers Bank & Trust, N.A	Great Bend	Kansas
Golden Belt Bank, FSA	Hays	Kansas
Central National Bank	Junction City	Kansas
Argentine Federal Savings	Kansas City	Kansas
Citizens Bank of Kansas, N.A	Kingman	Kansas
University National Bank of Lawrence	Lawrence	Kansas
Mutual Savings Association	Leavenworth	Kansas
The Citizens State Bank	Liberal	Kansas
The Citizens State Bank	Moundridge	Kansas
Midland National Bank	Newton	Kansas
Peoples Bank	Overland Park	Kansas
Bank of Blue Valley	Overland Park	Kansas
Peabody State Bank	Peabody	Kansas
The Bank of Perry	Perry	Kansas
The Plains State Bank	Plains	Kansas
The Peoples Bank	Pratt	Kansas
First Bank Kansas	Salina	Kansas
Security Savings Bank	Salina	Kansas
The Stockton National Bank	Stockton	Kansas
First National Bank of Syracuse	Syracuse	Kansas
The Bank of Tescott	Tescott	Kansas
Capitol Federal Savings Bank	Topeka	Kansas
Silver Lake Bank	Topeka	Kansas
Southwest Bank, N.A	Ulysses	Kansas
Kendall State Bank	Valley Falls	Kansas
Bank of Commerce & Trust Company	Wellington	Kansas
Garden Plain State Bank	Wichita	Kansas
Commerce Bank, N.A	Wichita	Kansas
Western Heritage Credit Union	Alliance	Nebraska
Farmers & Merchants National Bank	Ashland	Nebraska
Beatrice National Bank & Trust	Beatrice	Nebraska
Clarkson Bank	Clarkson	Nebraska

Nebraska Energy Federal Credit Union	Columbus	Nebraska
American Interstate Bank	Elkhorn	Nebraska
Genoa National Bank	Genoa	Nebraska
United Nebraska Bank	Grand Island	Nebraska
TierOne Bank	Lincoln	Nebraska
Platte Valley National Bank	Morrill	Nebraska
Otoe County Bank & Trust Company	Nebraska City	Nebraska
Nehawka Bank	Nehawka	Nebraska
Enterprise Bank, N.A	Omaha	Nebraska
Platte Valley National Bank	Scottsbluff	Nebraska
First National Bank	Sidney	Nebraska
The Wymore State Bank	Wymore	Nebraska
Anadarko Bank & Trust Company	Anadarko	Oklahoma
Community Bank	Bristow	Oklahoma
McCurtain County National Bank	Broken Bow	Oklahoma
Oklahoma Bank & Trust Company	Clinton	Oklahoma
American Bank of Oklahoma	Collinsville	Oklahoma
Citizens Bank of Edmond	Edmond	Oklahoma
First National Bank & Trust	Elk City	Oklahoma
Bank of the Panhandle	Guymon	Oklahoma
Legacy Bank	Hinton	Oklahoma
The First State Bank	Keyes	Oklahoma
City National Bank & Trust Company	Lawton	Oklahoma
First National Bank in Marlow	Marlow	Oklahoma
Community National Bank of Okarche	Okarche	Oklahoma
First National Bank in Okeene	Okeene	Oklahoma
BancFirst	Oklahoma City	Oklahoma
Local Oklahoma Bank, NA	Oklahoma City	Oklahoma
National Bank of Commerce	Oklahoma City	Oklahoma
The Bankers Bank	Oklahoma City	Oklahoma
The Okmulgee Savings and Loan Association	Okmulgee	Oklahoma
Citizens Bank & Trust Company	Okmulgee	Oklahoma
Bank of the Lakes, N.A	Owasso	Oklahoma
First State Bank of Porter	Porter	Oklahoma
Farmers State Bank	Quinton	Oklahoma
First National Bank & Trust Company	Shawnee	Oklahoma
Valley National Bank	Tulsa	Oklahoma
Triad Bank, N.A	Tulsa	Oklahoma
The First National Bank & Trust Company	Vinita	Oklahoma

Federal Home Loan Bank of San Francisco—District 11

Borrego Springs Bank	Borrego Springs	California
Fullerton Community Bank	Fullerton	California
Broadway Federal Bank, F.S.B	Inglewood	California
Western Financial Bank	Irvine	California
Silvergate Bank	La Mesa	California
Family Savings Bank, F.S.B	Los Angeles	California
Monterey County Bank	Monterey	California
Standard Savings Bank, FSB	Monterey Park	California
Trust Bank	Monterey Park	California
Metropolitan Bank	Oakland	California
Community Bank	Pasadena	California
IndyMac Bank, F.S.B	Pasadena	California
Bank of Petaluma	Petaluma	California
El Dorado Savings Bank	Placerville	California
Life Bank	Riverside	California
California Federal Bank	San Francisco	California
Sincere FSB	San Francisco	California
EastWest Bank	San Marino	California
Bay View Bank, NA	San Mateo	California
First FS&LA of San Rafael	San Rafael	California
First Federal Bank of California	Santa Monica	California
National Bank of the Redwoods	Santa Rosa	California
Sunwest Bank	Tustin	California
Desert Community Bank	Victorville	California
Citibank, FSB	New York	New York
Washington Mutual Bank, FA	Seattle	Washington

Federal Home Loan Bank of Seattle—District 12

First National Bank of Anchorage	Anchorage	Alaska
Mt. McKinley Mutual Savings Bank	Fairbanks	Alaska
Bank of Guam	Hagatna	Guam
American Savings Bank, F.S.B	Honolulu	Hawaii
Mountain West Bank	Coeur D'Alene	Idaho
First Security Bank	Bozeman	Montana

Glacier Bank of Eureka	Eureka	Montana
Heritage Bank	Great Falls	Montana
Ravalli County Bank	Hamilton	Montana
American Federal Savings Bank	Helena	Montana
Glacier Bank	Kalispell	Montana
Big Sky Western Bank	Kalispell	Montana
Montana First National Bank	Kalispell	Montana
Manhattan State Bank	Manhattan	Montana
Stockman Bank of Montana	Miles City	Montana
Bank of Astoria	Astoria	Oregon
Security Bank	Coos Bay	Oregon
The Bank of Salem	Salem	Oregon
Columbia River Bank	The Dalles	Oregon
Liberty Bank	Salt Lake City	Utah
Wells Fargo Northwest, N.A	Salt Lake City	Utah
Cascade Bank	Everett	Washington
Raymond Federal Savings Bank	Raymond	Washington
Evergreen Bank	Seattle	Washington
Pacific Northwest Bank	Seattle	Washington
Washington Federal Savings	Seattle	Washington
Sterling Savings Bank	Spokane	Washington
Buffalo Federal Savings Bank	Buffalo	Wyoming
Hilltop National Bank	Casper	Wyoming
Big Horn Federal Savings Bank	Greybull	Wyoming

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before July 29, 2002, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2002–03 second quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2002–03 second quarter review cycle must be delivered to the Finance Board on or before the August 30, 2002 deadline for submission of Community Support Statements.

Dated: July 3, 2002.

By the Federal Housing Finance Board.

James L. Bothwell,

Managing Director.

[FR Doc. 02–17217 Filed 7–12–02; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 29, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. The John M. Morrison Florida Intangible Trust No. 5 dated May 16, 2002, Naples, Florida; to acquire control of Central Bancshares, Inc., Golden Valley, Minnesota, and thereby indirectly acquire control of Central Bank, Stillwater, Minnesota.

Board of Governors of the Federal Reserve System, July 9, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–17614 Filed 7–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 8, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Capital Bank Corporation, Raleigh, North Carolina; to merge with High Street Corporation, Asheville, North Carolina, and thereby indirectly acquire High Street Banking Company, Asheville, North Carolina.

2. Community First Financial Corporation, Lynchburg, Virginia; to acquire up to 9.3 percent of the voting shares of Highlands Community Bank, Covington, Virginia (in organization).

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to merge with Mississippi Valley Bancshares, Inc., St. Louis, Missouri, and thereby indirectly acquire Southwest Bank of St. Louis, St. Louis, Missouri, Southwest Bank, Belleville, Illinois, and Southwest Bank of Phoenix, Phoenix, Arizona.

In connection with this application, Applicant also has applied to engage in extending credit and servicing loans, through RE Holding Company A, RE Holding Company B, RE Holding Company C and SWB Real Estate Investment Trust, all located in Clayton, Missouri, pursuant to section 225.28(b)(1) of Regulation Y; to engage in providing financial and investment advisory services, through Eagle Fund, L.L.C., St. Louis, Missouri, pursuant to sections 225.28(b)(6) of Regulation Y; to engage in trust company activities, through MVBI Capital Trust, Wilmington, Delaware, pursuant to section 225.28(b)(5) of Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. State Capital Corporation, Greenwood, Mississippi; to acquire up to 100 percent of the voting shares of Mississippi Southern Bank, Port Gibson, Mississippi.

Board of Governors of the Federal Reserve System, July 9, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–17613 Filed 7–12–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of September 5, 2002, meeting.

SUMMARY: The Advisory Committee on Blood Safety and Availability will meet on Thursday September 5, 2002 from 8 a.m. to 5 p.m. The meeting will take place at the Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC 20001. The meeting will be entirely open to the public. The agenda will be announced at a future date. Public comment will be limited to five minutes per speaker. Those who wish to have printed material distributed to Advisory Committee members should submit thirty (30) copies to the Executive Secretary prior to close of business August 19, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingale, MD, Executive Secretary, Advisory Committee on Blood Safety and Availability, Department of Health and Human Services, Office of Public Health and Science, 200 Independence Ave., SW., Room 736–E, Washington, DC 20201. Phone (202) 690–5558, FAX (202) 260–9372, e-mail *StephenDNightingale@osophs.dhhs.gov.*

Dated: July 9, 2002.

Eve E. Slater,

Assistant Secretary for Health.

[FR Doc. 02–17677 Filed 7–12–02; 8:45 am]

BILLING CODE 4150–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) as most recently amended at (60 FR 56605, November 6, 1995 as last amended at 66 FR 56333, dated November 7, 2001).

This notice reflects organizational changes in the Office of Information Technology, Office of the Administrator; the Division of Management Services, Office of Management and Program Support; and the HIV/AIDS Bureau. Make the following changes:

A. In the Office of Information Technology (RAG), Establish the Division of Knowledge Management Services

Division of Knowledge Management Services (RAG1)

Develops and maintains an overall knowledge management strategy for HRSA that is integrated with HHS and government-wide strategies. Specifically: (1) Identifies information needs across HRSA and develops approaches for meeting those needs; (2) ensures that data required to satisfy enterprise information requirements are captured in appropriate enterprise applications and summarized in the Data Warehouse; (3) manages HRSA-wide working groups as necessary to integrate enterprise data architecture with business applications and to re-engineer business processes; and (4) enhances and expands use and usefulness of HRSA's Data Warehouse through providing basic analytic capacity and user support; developing and maintaining a range of information products; and demonstrating the potential uses of information in supporting management decisions.

B. In the Division of Management Services Remove the Tort Claims Function and Place It in the HIV/AIDS Bureau (RV)

Division of Management Services (RS1)

Provides Agency-wide leadership and direction in the areas of management policies and procedures and property management, and serves as the Executive Officer for the Office of Management and Program Support (OMPS) and for the Office of the Administrator (OA). Specifically: (1) Provides advice and guidance for the establishment or modification of organizational structures, functions, and delegations of authority; (2) conducts and coordinates the Agency's issuances, reports and mail management programs; (3) manages and maintains a records and forms management program for the Agency, this includes electronic data; (4) manages the intra- and interagency agreements process; (5) conducts Agency-wide management improvement programs; (6) conducts management and information studies and surveys; (7) oversees and coordinates the implementation of directives and policies relating to the Privacy Act; (8) plans, directs, and coordinates administrative management activities and services including personnel, financial, materiel management, and general administrative services for OA and OMPS; (9) acts for the Associate Administrator for Management and Program Support concerning space, parking, and communications management for headquarters and represents him/her in matters relating to the management of the Parklawn Building complex; (10) advises on and coordinates Agency-wide policies and procedures required to implement General Services Administration and Departmental regulations governing materiel management, including travel, transportation, motor vehicle, and utilization and disposal of property; (11) oversees and coordinates the Agency's committee management program; and

(12) coordinates the Agency's Alternative Dispute Resolution (ADR) Program.

C. In the HIV/AIDS Bureau (RV) Revise the Functional Statement to Read

Provides leadership and direction for the HIV/AIDS programs and activities of the Bureau and oversees its relationship with other national health programs. Specifically: (1) Coordinates the formulation of an overall strategy and policy for HRSA AIDS programs; (2) coordinates the internal functions of the Bureau and its relationships with other national health programs; (3) establishes AIDS program objectives, alternatives, and policy positions consistent with broad Administration guidelines; (4) administers the Agency's AIDS grants and contracts programs; (5) reviews AIDS related program activities to determine their consistency with established policies; (6) represents the Agency and the Department at AIDS related meetings, conferences and task forces; (7) serves as principal contact and advisor to the Department and other parties concerned with matters relating to planning and development of health delivery systems relating to HIV/AIDS; (8) develops and administers operating policies and procedures for the Bureau; (9) directs and coordinates the Bureau activities in support of the Department/Bureau's Affirmative Action and Equal Employment Opportunity programs by ensuring that all internal employment practices provide an equal opportunity to all qualified persons and its employment practices do not discriminate on the basis of race, color, sex, age, national origin, religious affiliation, marital status, and that all external benefits and service oriented activities relative to the recipients of Federal funds are likewise addressed in accordance with applicable laws, Executive Orders, HHS regulations and policies; (10) provides direction to the Bureau's Civil Rights compliance activities; (11) directs and coordinates Bureau Executive Secretariat activities; (12) serves in developing and coordinating (telehealth) programs and in facilitating the electronic dissemination of best practices in health care to health care professionals; (13) directs the HRSA Center for Quality; and (14) coordinates the Department's tort claims panel and associated activities.

Delegation of Authority

All delegations and re-delegations of authorities to officers and employees of HRSA which were in effect immediately prior to the effective date of this action will be continued in effect in them or their successors, pending further re-delegation, provided they are consistent with this action. This document is effective upon date of signature.

Dated: July 1, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–17583 Filed 7–12–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

James C. Pennington, Brown University: Based on the report of an inquiry/investigation conducted by Brown University and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that James C. Pennington, formerly a graduate student in the Department of Cognitive and Linguistic Sciences, engaged in scientific misconduct by fabricating data in his master's thesis. The research was supported by National Institute on Deafness and Other Communication Disorders (NIDCD), National Institutes of Health (NIH), grant R01 DC000314, ''Speech and language processing in aphasia.''

Specifically, PHS found that:

1. For Experiment 3, reported as having been conducted with 12 normal subjects, Mr. Pennington fabricated: (a) The mean reaction time data to auditory stimuli presented in Figures 5 and 6, and the results of the associated statistical analyses; and (b) the accuracy data presented in Tables 4 and 5, and the results of the associated statistical analysis.

2. For Experiment 4, reported as having been conducted with 6 subjects with Broca's aphasia, Mr. Pennington fabricated: (a) The mean reaction time data to auditory stimuli presented in Figures 7 and 8, and the results of the associated statistical analyses; and (b) the accuracy data presented in Table 6, and the results of the associated statistical analysis.

The fabrication of Experiments 3 and 4, which were intended to incorporate improvements to the procedures used in Experiments 1 and 2, resulted in the premature termination of the planned experimental procedures and indeterminate or possibly misleading findings relative to the influence of negative priming on the processing of auditory stimuli in normal and aphasic subjects.

Mr. Pennington has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed for a period of three (3) years, beginning on June 21, 2002: (1) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and (2) that any institution that submits an application for PHS support for a research project on which Mr. Pennington's participation is proposed or that uses him in any capacity on PHS supported research, or that submits a report of PHS-funded research in with he is involved, must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Mr. Pennington's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852. (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–17750 Filed 7–12–02; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02214]

Demonstration Project To Reduce the Incidence and Severity of Infection in Patients With End Stage Renal Disease (ESRD) in Hawaii; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a grant program to reduce the incidence and severity of infection in patients with End Stage Renal Disease (ESRD) in Hawaii. This program addresses the ''Healthy People 2010'' focus area(s) Immunization and Infectious Diseases.

The purpose of the program is to establish a plan to conduct a home-based and community-based demonstration project to reduce the incidence and severity of infections in patients with ESRD in Hawaii and to monitor the impact that this project has in the defined patient population.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Infectious Diseases: To apply scientific findings to prevent and control infectious diseases.

B. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) and 317(k)(2) of the Public Health Service Act, (42 U.S.C. sections 241(a) and 247b(k)(2)), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

C. Eligible Applicants

Assistance will be provided only to public and private nonprofit organizations located in the State of Hawaii having at least five dialysis centers on at least three of the Hawaiian Islands, and which treat at least 800 patients.

Based on data from CDC's Dialysis Surveillance Network, the estimated rate of serious infection with bacteremia is 2.3 per 100 patient-months. To detect a 25% decrease in this rate (with 80% power), the study would need 9,706 patient-months of followup. If the study lasts 12 months, then approximately 800 patients need to be studied each month. In order to recruit a sufficient number of high-risk patients and complete the project in a timely fashion, it will be necessary to have a large population base of ESRD patients.

The effect of the intervention is likely to vary among dialysis centers; therefore to determine the effectiveness of the intervention it is necessary that the applicant have at least five facilities. To ensure the capture of a representative patient sample, dialysis units on at least three of the Islands should be included. These requirements are necessary for the success of this project.

The House of Representatives Conference Report accompanying the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill ending September 30, 2002, and For Other Purposes (H.R. 3061, 107th Congress), recognized that many Native Hawaiians in rural Hawaii afflicted with ESRD and on dialysis have a history of repeated infections that put them at greater risk for frequent hospitalization. The Committee encouraged CDC to consider a demonstration project in Hawaii to reduce the incidence of infection in this patient population.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Availability of Funds

Approximately $300,000 is available in FY 2002 to fund approximately one award. It is expected that the award will begin on or about September 15, 2002, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change. Matching funds are not required for this program.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

1. Collect baseline data on infection incidence using a standardized protocol in a large group of ESRD patients.
2. Assess risk factors for infection in this group. Potential risk factors include patient factors, infection control practices at the dialysis centers, and home practices.
3. Through risk factor analyses, identify a group of patients at high risk for infection.
4. Design and develop a home-based and community-based intervention program to make home visits, provide education, and implement infection prevention measures. A multidisciplinary team should use a case management approach, assess each patient's needs, and develop a plan of individualized interventions.
5. Implement case management services and home visits on the group of high-risk ESRD patients.
6. Monitor and evaluate the impact of the interventions. Collect followup data on the problems of implementing the program, the lessons learned, acceptability to patients, and infection incidence in the group of ESRD patients.

F. Content

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 pages, double-spaced, printed on one side, with one inch margins, and unreduced font.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget.

G. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

Application forms must be submitted in the following order:

Cover Letter
Table of Contents
Application
Budget Information Form
Budget Justification
Checklist
Assurances
Certifications
Disclosure Form
HIV Assurance Form (if applicable)
Human Subjects Certification (if applicable)
Indirect Cost Rate Agreement (if applicable)
Narrative

The application must be received by 5 p.m. Eastern Time August 14, 2002. Submit the application to:

Technical Information Management-PA02214, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are received before 5 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will

demonstrate the accomplishment of the various identified objectives of the grant. Measures of effectiveness must relate to the performance goal stated in section ''A. Purpose'' of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Background and Need (30 points)

The extent to which the applicant demonstrates a strong understanding of the problem of infections in ESRD patients. The extent to which the applicant illustrates the need for this grant program. The extent to which the applicant presents a clear goal for this grant that is consistent with the described need.

2. Capacity (30 points)

The extent to which the applicant demonstrates that they have the expertise, facilities, and other resources necessary to accomplish the program requirements, including curricula vitae of key personnel and letters of support from any participating organizations/institutions.

3. Operational Plan (30 points)

a. The extent to which the applicant presents clear, time-phased objectives that are consistent with the stated program goal and a detailed operational plan outlining specific activities that are likely to achieve the objective. The extent to which the plan clearly outlines the responsibilities of each of the key personnel.

b. The extent to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; and (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Evaluation Plan (5 points)

The extent to which the applicant presents a plan for monitoring progress toward the stated goals and objectives.

5. Measures of Effectiveness (5 points)

Does the applicant provide Measures of Effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant? Are the measures objective/quantitative and do they adequately measure the intended outcome?

6. Budget (Not Scored)

The extent to which the applicant presents a detailed budget with a line-item justification and any other information to demonstrate that the request for assistance is consistent with the purpose and objectives of this grant program.

7. Human Subjects (Not Scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects?

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of—

1. Semi-annual progress reports. The progress report will include a data requirement that demonstrates measures of effectiveness.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For business management assistance, contact:

Sharon Robertson, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2748, E-mail address: *sqr2@cdc.gov.*

For program technical assistance, contact:

Jerome Tokars, M.D., Division of Healthcare Quality Promotion, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE. Mailstop E–55, Atlanta, GA 30333, Telephone number: 404–498–1125, E-mail address: *Jtokars@cdc.gov.*

Dated: July 9, 2002.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–17628 Filed 7–12–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02163]

Support for Civil Society of Organizations Responding to HIV/AIDS in Zimbabwe; Notice of Availability of Funds; Amendment

A notice announcing the availability of Fiscal Year 2002 funds for cooperative agreement program for Support for Civil Society of Organizations Responding to HIV/AIDS in Zimbabwe was published on May 23,2002, Volume 67, Number 100, pages 36194–36196. The notice is amended as follows: On page 36195, Column 2, Paragraph ''F. Content'', Letter of Intent (LOI), the following change is added: A (LOI) is optional for this program.

Dated: July 9, 2002.

Sandra R. Manning,

Director, Procurements and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–17627 Filed 7–12–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Connecticut Medicaid State Plan Amendment (SPA) 01–011B

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 30, 2002, at 10 a.m., at the JFK Federal Building; Room 2250, Boston, Massachusetts 02203–0003, to reconsider our decision to disapprove Connecticut SPA 01–011B.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by July 30, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, C1–09–13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410)–786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Connecticut SPA 01–011B.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Centers for Medicare & Medicaid (CMS) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The issue is whether SPA 01–011B complies with requirements for publication of public notice and the effective date. Connecticut submitted SPA 01–011B on September 21, 2001. The amendment would provide an update factor for inpatient hospital rates as of July 1, 2001. The State indicated in its response dated February 22, 2002, that it published a public notice on September 26, 2001. Under section 1902(a)(13)(A) of the Act, payment rates for hospital services must be established through a public process which includes notice and a reasonable opportunity for review and comment. Federal regulations at 42 CFR 447.205 state that the public notice must be published before the proposed effective date of any significant change in payment rates. The CMS interprets this advance public notice requirement to mean the notice must be published at least one calendar day prior to the proposed effective date.

Therefore, the earliest approvable effective date for this amendment is September 27, 2001. Because the State requested an effective date of July 1, 2001, CMS was unable to approve the requested amendment.

I am scheduling a hearing on your request for reconsideration to be held on August 30, 2002, at 10 a.m., at the JFK Federal Building, Room 2250, Boston, Massachusetts 02203–0003, to reconsider our decision to disapprove Connecticut SPA 01–011B.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Mr. Michael P. Starkowski, Deputy Commissioner, State of Connecticut, Department of Social Services, 25 Sigourney Street, Hartford, CT 06106–5033.

Dear Mr. Starkowski: I am responding to your request for reconsideration of the decision to disapprove Connecticut State Plan Amendment (SPA) 01–011B.

The issue involves publication of public notice and effective date. Connecticut submitted SPA 01–011B on September 21, 2001. The amendment would provide an update factor for inpatient hospital rates as of July 1, 2001. For the reasons stated below, the Centers for Medicare & Medicaid Services (CMS) was unable to approve this amendment.

The issue is whether SPA 01–011B complies with requirements for publication of public notice and the effective date. Connecticut submitted SPA 01–011B on September 21, 2001. The amendment would provide an update factor for inpatient hospital rates as of July 1, 2001. The State indicated in its response dated February 22, 2002, that it published a public notice on September 26, 2001. Under section 1902(a)(13)(A), payment rates for hospital services must be established through a public process which includes notice and a reasonable opportunity for review and comment. Federal regulations at 42 CFR 447.205 state that the public notice must be published before the proposed effective date of any significant change in payment rates. The CMS interprets this advance public notice requirement to mean the notice must be published at least one calendar day prior to the proposed effective date. Therefore, the earliest approvable effective date for this amendment is September 27, 2001. Because the State requested an effective date of July 1, 2001, CMS was unable to approve the requested amendment.

I am scheduling a hearing on your request for reconsideration to be held on August 30, 2002, at 10 a.m., at the JFK Federal Building, Room 2250, Boston, Massachusetts 02203–0003, to reconsider our decision to disapprove Connecticut SPA 01–011B.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,

Thomas A. Scully.

Section 1116 of the Social Security Act (42 U.S.C. section 1316; 42 CFR section 430.18).

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02–17619 Filed 7–12–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–29/30]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Request for Certification as Rural Health Clinic and Rural Health Clinic Survey Report Form and Supporting Regulations in 42 CFR 491.1–491.11; *Form No.:* CMS–0029/0030 (OMB# 0938–0074); *Use:* The Form CMS–29 is utilized as an application to be completed by suppliers of RHC services requesting participation in the Medicare/Medicaid programs. This form initiates the process of obtaining a decision as to whether the conditions for certification are met as a supplier of RHC services. It also promotes data reduction or introduction to and retrieval from the Online Survey and Certification and Reporting System (OSCAR) by the CMS Regional Offices (RO). The Form CMS–30 is an instrument used by the State survey agency to record data collected in order to determine RHC compliance with individual conditions of participation and to report it to the Federal government. The form is primarily a coding worksheet designed to facilitate data reduction (keypunching) and retrieval into OSCAR at the CMS ROs. The form includes basic information on compliance (i.e., met, not met and explanatory statements) and does not require any descriptive information regarding the survey activity itself.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 661; *Total Annual Responses:* 661; Total Annual Hours: 1,157.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown CSM–29/30, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 2, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–17706 Filed 7–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–137]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Internal Revenue Service/Social Security Administration/Health Care Financing Administration Data Match and Supporting Regulations in 42 CFR 411.20–411.206; *Form No.:* CMS–R–137; *Use:* Employers who are identified through a match of IRS, SSA, and Medicare records will be contacted concerning group health plan coverage of identified individuals to ensure compliance with Medicare Secondary Payer provisions found at 42 U.S.C. 1395y(b). *Frequency:* Annually *Affected Public:* Federal Government, business or other for profit, not for profit institutions, Farms, Federal Government and State, Local or Tribal Government; *Number of Respondents:* 327,947; *Total Annual Responses:* 327,947; *Total Annual Hours Requested:* 1,096,466.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address:

CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–R–137, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 2, 2002.

Julie Brown,

Acting, Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–17708 Filed 7–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–319]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* State Medicaid Eligibility Quality Control (MEQC) Sample Section Lists and Supporting Regulations in 42 CFR 431.800–431.865; *Form No.:* CMS–0319 (OMB# 0938–0147); *Use:* The sample selection lists contain identifying information on Medicaid beneficiaries and is the basis for the cases that States review to determine the accuracy of the Medicaid eligibility determinations. The Regional Office uses this list to monitor State review activity; *Frequency:* Monthly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 55; *Total Annual Responses:* 660; *Total Annual Hours:* 5,280.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address:

CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown CMS–319, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 5, 2002.

Julie Brown,

Acting Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–17756 Filed 7–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–74]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Income and Eligibility Verification System (IEVS) and Supporting Regulations in 42 CFR 435.940–435.965; *Form No.:* CMS–R–74 (OMB# 0938–0467); *Use:* Section 1137 of the Social Security Act requires Medicaid State agencies and other federally funded welfare agencies to request income and resource data from certain federal agencies, State wage information collection agencies, and State unemployment compensation agencies through an IEVS. The purpose of the IEVS is to ensure that only eligible individuals receive benefits.; *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 54; *Total Annual Responses:* 54; Total Annual Hours: 98,524.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 2, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–17707 Filed 7–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–841, 842, 844–853]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity; *Form No.:* CMS–841, 842, 844–853 (OMB# 0938–0679); *Use:* This information is needed to correctly process claims and ensure that claims are properly paid. These forms contain medical information necessary to make an appropriate claim determination. Suppliers and physicians will complete these forms. *Frequency:* Record Keeping and reporting on occasion; *Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government; *Number of Respondents:* 137,300; *Total Annual Responses:* 6.7 million; *Total Annual Hours:* 1.13 million.

This **Federal Registe**r notice does not include the CMS–843 collection. The 60-day **Federal Register** notice for all of the CMNs was published on March 4, 2002, Volume 67, Number 42, Page 9741–9743. We will be publishing the 30-day **Federal Register** notice for the CMS–843 (power wheelchair) collection separately due to the public comments we received.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 2, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–17709 Filed 7–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Grant to the University of Maryland, Baltimore County

AGENCY: Office of Planning, Research and Evaluation, Administration for Children and Families, Department of Health and Human Services.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the University of Maryland, Baltimore County, to use data from previous evaluations of welfare-to-work programs to determine how these programs can be made more efficient. The University of Maryland, Baltimore County, is uniquely qualified to conduct this study, because its database presently contains detailed information on 24 welfare-to-work programs conducted in over 50 sites. The project described in the proposal would build on this database for the current research.

This 17-month project is being funded noncompetitively. The University has several facilities and resources on campus for undertaking the study. The University also will rely upon several outside sources with specialized expertise to conduct various activities related to the project. The cost of this 17-month project is $248,541.

FOR FURTHER INFORMATION CONTACT: Leonard Sternback, Administration for Children and Families, 50 U.N. Plaza, San Francisco, California 94102, Phone: 415–437–7671.

Dated: July 2, 2002.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 02–17705 Filed 7–12–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KR, the Office of Refugee Resettlement (ORR) [63 FR 42050], as last amended, August 6, 1998. This notice reflects the realigning of functions within the Office of Refugee Resettlement and the establishment of a new Division.

These Chapters are amended as follows:

KR.00 Mission. Delete in its entirety and replace with the following:

KR.00 Mission. The Office of Refugee Resettlement (ORR) advises the Secretary, through the Assistant Secretary for Children and Families, on matters relating to refugee resettlement, immigration, victims of severe forms of trafficking in persons, victims of torture, and repatriation of U.S. citizens. The Office plans, develops and directs implementation of a comprehensive program for domestic refugee and entrant resettlement assistance. The Office also plans, develops and provides direction on the administration of the U.S. Repatriate Program. It develops, recommends, and issues program policies, procedures and interpretations to provide program direction. The Office monitors and evaluates the performance of States and other public and private agencies in administering these programs and supports actions to improve them. It provides leadership and direction in the development and coordination of national public and private programs that provide assistance to refugees, asylees, Cuban and Haitian

entrants, and certain Amerasians and victims of severe forms of trafficking in persons.

A. KR.10 Organization. Delete in its entirety and replace with the following:

KR.10 Organization. The Office of Refugee Resettlement is headed by a Director who reports directly to the Assistant Secretary for Children and Families and consists of:

Office of the Director (KRA)
Division of Refugee Assistance (KRE)
Division of Community Resettlement (KRF)
Division of Budget, Policy and Data Analysis (KRG)

B. Delete KR.20 Functions, Paragraph A, Office of the Director in its entirety and replace with following:

KR.20 Functions. A. The Office of the Director is directly responsible to the Assistant Secretary for Children and Families for carrying out ORR's mission and providing guidance and general supervision to the components of ORR. The Office provides direction in the development of program policy and budget and in the formulation of salaries and expense budgets. Staff also provide administrative and personnel support services. The Office is responsible for implementing certain provisions of the Trafficking Victims Protection Act.

The Office coordinates with the lead refugee and entrant program offices of other federal departments; provides leadership in representing refugee and entrant programs, policies and administration to a variety of governmental entities and other public and private interests; and acts as the coordinator of the total refugee and entrant resettlement effort for ACF and the Department. The Office coordinates the certification of, and services to, victims of severe forms of trafficking. It also coordinates with other Federal government agencies on certification activities and policy issues related to the trafficking law.

C. Delete KR.20 Functions, Paragraph B, the Division of Refugee Self-Sufficiency in its entirety and replace with the following:

B. The Division of Refugee Assistance provides direction for assuring that refugees are provided assistance and services through the State-administered program and alternative programs such as the Wilson/Fish projects in a manner that helps refugees to become employed and economically self-sufficient as soon after their arrival in the United States as possible. The Division monitors and provides technical assistance to the State-administered domestic assistance programs and Wilson/Fish projects. The Division develops guidance and procedures for their implementation; manages special initiatives to increase refugee self-sufficiency such as through demonstration or pilot programs; and manages the unaccompanied minors program to ensure that refugee and entrant unaccompanied minors are provided appropriate care and services. The Division ensures the quality of medical screening and initial medical treatment of refugees. The Division also assists public and private agencies on data reporting and the resolution of reporting problems.

D. Amend KR.20 Functions to add the following new paragraph:

D. The Division of Budget, Policy and Data Analysis manages the allocation and tracking of funds for refugee cash and refugee medical assistance and State administrative costs; prepares annual budget estimates and related materials; and develops regulations, legislative proposals, and routine interpretations of policy regarding the State-administered and alternative programs. The Division collects data and performs analyses on the changing needs of the refugee and entrant population; provides leadership to identify data needs and sources, and formulates data and reporting requirements.

E. Delete KR.20 Functions, Paragraph C, Division of Community Resettlement, in its entirety and replace with the following:

C. The Division of Community Resettlement directs and manages effective refugee resettlement through the programmatic implementation of grants, contracts and special initiatives, such as the Voluntary Agency Program, associated with national discretionary activity. The Division oversees and monitors most ORR discretionary grants; recommends grantee allocations, coordinates with the grants management office to review the financial expenditures under discretionary grant programs; provides data in support of apportionment requests; and provides technical assistance on discretionary grants operations. The Division coordinates and provides liaison with the Department and other Federal agencies on discretionary grant operational issues and other activities as specified by the Director or required by Congressional mandate; assists private agencies on data reporting and the resolution of reporting problems; compiles, evaluates, and disseminates information on refugee service programs; responds to unanticipated refugee and entrant arrivals or significant increases in arrivals to communities where adequate or appropriate services do not exist; strengthens the role of ethnic community national or multi-State organizations to promote economic independence among refugees; provides for English language training and provides where specific needs have been shown and recognized by the Director for health (including mental health) services, social services, educational and other services.

The Division develops Repatriation plans to make arrangements and approve payments for temporary assistance to certain U.S. citizens and dependents repatriated from foreign countries, and for the hospitalization of certain U.S. Nationals repatriated because of mental illness.

Dated: July 8, 2002.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 02–17606 Filed 7–12–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oxytetracycline Hydrochloride for Marking Fish; Availability of Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of effectiveness, target animal safety, human food safety, and environmental data that may be used in support of a new animal drug application (NADA) or supplemental NADA for use of a solution of oxytetracycline hydrochloride for skeletal marking of finfish by immersion. The data, contained in Public Master File (PMF) 5667, were compiled under National Research Support Project-7 (NRSP–7), a national agricultural research program for obtaining clearances for use of new drugs in minor animal species and for special uses.

ADDRESSES: Submit NADAs or supplemental NADAs to the Document Control Unit (HFV–199), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–131), Food and Drug Administration, 7500 Standish Pl.,

Rockville, MD 20855, 301–827–7571, e-mail: jgotthar@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

Oxytetracycline hydrochloride soluble powder, used in solution for skeletal marking of juvenile finfish by immersion as an aid in identification is a new animal drug under section 201(v) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(v)). As a new animal drug, oxytetracycline hydrochloride is subject to section 512 of the act (21 U.S.C. 360b), requiring that its uses be the subject of an approved NADA or supplemental NADA. Fish are a minor species under § 514.1(d)(1)(ii) (21 CFR 514.1(d)(1)(ii)).

The NRSP–7 Project, North Eastern Region, New York State College of Veterinary Medicine, Cornell University, Ithaca, NY 14850, has provided target animal safety, effectiveness, human food safety, and environmental data for use of oxytetracycline hydrochloride soluble powder for skeletal marking of fish by immersion. These data are contained in PMF 5667.

Under §§ 25.15(d) and 25.33(d)(4) (21 CFR 25.15(d) and 25.33(d)(4)), sponsors of NADAs and supplemental NADAs for drugs in minor species, including wildlife and endangered species, are categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement when the drug has been approved for use in another or the same species where similar animal management practices are used. The categorical exclusion applies unless, as defined in § 25.21 (21 CFR 25.21), extraordinary circumstances exist which indicate that the proposed action may significantly affect the quality of the human environment. Therefore, based upon information available, FDA agrees that when the application is submitted, the applicant may claim a categorical exclusion under § 25.33(d)(4) provided that the applicant can state that to the best of the applicant's knowledge, as in § 25.21, no extraordinary circumstances exist. It is assumed that the applicant has made a reasonable effort to determine that no extraordinary circumstances exist.

Sponsors of NADAs or supplemental NADAs may, without further authorization, reference the PMF 5667 to support approval of an application filed under § 514.1(d). An NADA or supplemental NADA must include, in addition to reference to the PMF, animal drug labeling and other information needed for approval, such as: Data supporting extrapolation from a major species in which the drug is currently approved or authorized reference to such data; data concerning manufacturing methods, facilities, and controls; and information addressing potential environmental impacts of the manufacturing process. Persons desiring more information concerning PMF 5667 or requirements for approval of an NADA or supplement may contact Joan C. Gotthardt (see **FOR FURTHER INFORMATION CONTACT**).

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information provided in PMF 5667 to support approval of an application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 27, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–17749 Filed 7–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

New Annual ''Low-Income'' Levels for Various Health Professions and Nursing Programs Included in Titles VII and VIII of the Public Health Service Act

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the new ''low-income'' levels for various programs included in titles VII and VIII of the Public Health Service (PHS) Act, which use the U.S. Census Bureau ''low income'' levels to determine eligibility for program participation. The Department periodically publishes in the **Federal Register** low-income levels used to determine eligibility for grants and cooperative agreements to institutions providing training for (1) disadvantaged individuals, (2) individuals from a disadvantaged background, or (3) individuals from ''low-income'' families.

SUPPLEMENTARY INFORMATION: This notice announces increase in income levels intended for use in determining eligibility for participation in the following programs:

Advanced Education Nursing (section 811)
Allied Health Special Projects (section 755)
Basic Nurse Education and Practice (section 831)
Dental Public Health (section 768)
Faculty Loan Repayment and Minority Faculty Fellowship Program (section 738)
General and Pediatric Dentistry (section 747)
Health Administration Traineeships and Special Projects (section 769)
Health Careers Opportunity Program (section 739)
Loans to Disadvantaged Students (section 724)
Physician Assistant Training (section 747)
Primary Care Residency Training (section 747)
Public Health Traineeships (section 767)
Quentin N. Burdick Program for Rural Interdisciplinary Training (section 754)
Residency Training in Preventive Medicine (section 768)
Public Health Training Centers (section 766)
Nursing Workforce Diversity (section 821)

These programs generally award grants to accredited schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, podiatric medicine, nursing, chiropractic, public or private nonprofit schools which offer graduate programs in behavioral health and mental health practice, and other public or private nonprofit health or education entities to assist the disadvantaged to enter and graduate from health professions and nursing schools. Some programs provide for the repayment of health professions or nursing education loans for disadvantaged students.

Low-Income Levels

The Secretary defines a ''low-income'' family for programs included in titles VII and VIII of the PHS Act as having an annual income that does not exceed 200 percent of the Department's poverty guidelines. The Department's poverty guidelines which were published in the **Federal Register** on Thursday, February 14, 2002, (67 FR 6931), are based on poverty thresholds published by the U.S. Census Bureau, adjusted annually for changes in the Consumer Price Index. The Secretary annually adjusts the low-income levels based on the Department's poverty guideline and makes them available to persons responsible for administering the applicable programs. The following income figures will be used for health professions and nursing grant

applications requesting FY 2003 funding.

Size of parent's family [1]	Income [2] level
1	$17,720
2	23,880
3	30,040
4	36,200
5	42,360
6	48,520
7	54,680
8	60,840

[1] Includes only dependents on Federal Income tax forms.
[2] Adjusted gross income for calendar year 2001.

Dated: July 9, 2002.

Elizabeth M. Duke,

Adminstrator.

[FR Doc. 02–17751 Filed 7–12–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 the 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel, RFA AA00–003 Alcohol Research Centers Applications.

Date: July 30, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, PhD, Chief, Extramural Project Review Branch, OSA, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, MSC 7003, Rockville, MD 20892–7003, 301–443–2860, *ehayunga@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17673 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting:

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: July 29, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To debrief on May 2002 meeting and to get updates from the working group.

Place: 6116 Executive Blvd., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Lee, Executive Secretary, Office of Liaison Activities, National Institutes of Health, National Cancer Institute, 6116 Executive Boulevard, Suite 300 C, Bethesda, MD 20892, 301/594–3194.

This notice is being published less than 15 days prior to the meeting due to scheduling conflicts.

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.

Information is also available on the Institute's/Center's home page: deainfo.nci.nih.gov/advisory/dclg/dclg.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17658 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Cancer Institute, July 10, 2002, 1 p.m. to July 10, 2002 3 p.m. National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 11A03, Bethesda, MD, 20892 which was published in the **Federal Register** on June 18, 2002, 67 FR41434.

This meeting is amended to change the meeting time to 2:30 p.m. to 4 p.m. The meeting is open to the public.

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17659 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Complementary and Alternative Medicine Special Emphasis Panel, July 8, 2002, 2 pm to July 8, 2002, 5 pm, 6707 Democracy Blvd., Bethesda, MD, 20892 which was published in the **Federal Register** on June 18, 2002, 67 FR 41435.

The meeting will be held July 9, 2002 from 2 pm to 5 pm, 6707 Democracy Blvd., Bethesda, Maryland (telephone conference call). The meeting is closed to the public.

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17663 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 National Advisory Research Resources Council.

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 sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Research Resources Council.

Date: September 19, 2002.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: Report of Center Director & other issues.

Place: Natcher Building 45, Conference Room D, National Institutes of Health, Bethesda, MD 20892.

Closed: 2:40 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building 45, Conference Room D, National Institutes of Health, Bethesda, MD 20892.

Contact Person: Louise E. Ramm, PhD., Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

Information is also available on the Institute's/Center's home page: *www.ncrr.nih.gov/newspub/minutes.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17674 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, July 25, 2002, 8:30 a.m. to July 25, 2002, 6 p.m., Monarch Hotel, 2400 M Street, NW., Washington, DC 20037 which was published in the **Federal Register** on June 26, 2002, 67 FR 02–16076.

The meeting will be held on August 9, 2002 from 8:30 a.m. to 6 p.m. The meeting is closed to the public.

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Direcetor, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17657 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 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 on Aging Special Emphasis Panel, ''Aging and Oxidative Damage''.

Date: July 8–9, 2002.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Galveston Island Resort, 5400 Seawell Boulevard, Galveston, TX 77551.

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

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 Aging Special Emphasis Panel, Neurosciences R03'S.

Date: July 8–9, 2002.

Time: 6:30 a.m. to 5 p.m.,

Agenda: To review and evaluate grant applications,

Place: Pickwick Hotel & Conference Center, 2012 Magnolia Avenue, Birmingham, AL 35205.

Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 2701 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

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 Aging Special Emphasis Panel, Metabolism and Aging.

Date: July 15–16, 2002.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: New York Midtown East Countyard By Marriott, 866 Third Ave., New York, NY 10022.

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

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 Aging Special Emphasis Panel, Contract For Clinical Services.

Date: July 18, 2002.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: 7201 Wisconsin Avenue, Gateway Building Rm 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Nekola, PhD, Chief of the Scientific Review Office, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814–9692, 301–496–9666.

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 Aging Special Emphasis Panel, ''Age–Department Attenuation to Environmental Toxin Insults''?.

Date July 22–23, 2002.

Time: 6:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Brown—A Camberly Hotel, 335 West Broadway, Louisville, KY 40202.

Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 2301 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Active.

Date: July 24, 2002.

Time: 8: a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892.

Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel AgeWise.

Date: August 6, 2002.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17660 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel, Primary Care Anziety Intervention.

Date: July 22, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Nueroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93. 282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17662 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel, IP–RISP.

Date: July 30, 3002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, *mcarey@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 92.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17664 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 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 Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel. Focal Segmental Glomerulosclerosis

Date: August 6, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel. Comprehensive Programs and Beta Cell Biology.

Date: August 7–8, 2002.

Time: 7 p.m. to 4 p.m.

Agenda: to review and evaluate grant applications

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel. Functional Genomics of Beta Cell Biology.

Date: August 8, 2002.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17665 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Drug Abuse; 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 on Drug Abuse Special Emphasis Panel, Prevention Research Initiative.

Date: August 1, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20853.

Contact Person: Mark R. Green, PhD, Chief, CEASRB, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Room 3158, MSC 9547, 6001 Executive Boulevard, Bethesda, MD 20892–9547, (301) 435–1431.

(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: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17666 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: September 23, 2002.

Time: 1 p.m. to 5 p.m.

Agenda: The Committee will provide advice on scientific priorities, policy, and program balance at the Division level. The Committee will review the progress and productivity of ongoing efforts, and identify critical gaps/obstacles to progress.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Room 4139, 6700-B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7601, 301–435–3732.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by nongovernment 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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17667 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis, Panel. Program Project Grants.

Date: August 9, 2002.

Time: 10:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 1 Democracy, 6701 Democracy Blvd, Suite 707 MSC 4870, Bethesda, MD 20892–4870.

Contact Person: Richard J Bartlett, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Bldg./Bldg. 45, MSC 6500/Room 5AS–37B, Bethesda, MD 20892, (301) 594–4952.

(Catagloue of Federal Domestic Assistance Program Nos. 93. 846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17668 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Medication Development for Stimulant Dependence''

Date: July 17, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institutes on 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.

(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: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17669 Filed 7–12–02; 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 Review of R01 Supplement.

Date: August 6, 2002.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Ph.D., Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(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: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17670 Filed 7–12–02; 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 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, NIEHS.

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 other conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: August 11–13, 2002.

Closed: August 11, 2002, 8 p.m. to 9:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709.

Open: August 12, 2002, 8:30 a.m. to 5 p.m.

Agenda: An overview of the organization and conduct of research in the Laboratory of Toxicology.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: August 13, 2002, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Steven K Akiyama, PhD, Acting Deputy Scientific Director, Division of Intramural Research, Nat. Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, MSC A2–09, Research Triangle Park, NC 27709, 919/541–3467, *akiyama@niehs.nih.gov.*

(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: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17671 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Allergy and Infectious Diseases Special Emphasis Panel, ''Partnerships for Novel Therapeutic, Diagnostic and Vector Control Strategies in, Infectious Diseases''.

Date: July 24–26, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Anna Ramsey-Ewing, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301 496–2550, *ar15o@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17672 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 meetings of the National Advisory Allergy and Infectious Diseases Council.

The meetings 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 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 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 Advisory Allergy and Infectious Diseases Council, Acquired Immunodeficiency Syndrome Subcommittee.

Date: September 23, 2002.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Conference Room B, 45 Center Drive, Bethesda, MD 20892.

Open: 12 p.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Microbiology and Infectious Diseases Subcommittee.

Date: September 23, 2002.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Open: 12 p.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Allergy, Immunology and Transplantation Subcommittee.

Date: September 23, 2002.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Open: 12 p.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.

Date: September 23, 2002.

Open: 10:30 a.m. to 11:40 a.m.

Agenda: The meeting of the full Council will be open to the public for general discussion.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: 11:40 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

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.

Information is also available on the Institute's/Center's home page: *www.niaid.nih.gov/facts/facts.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17675 Filed 7–12–02; 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 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 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, Review of Conference Applications (R13s).

Date: September 4, 2002.

Time: 1 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M McGee, Associate Scientific Review Administator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Applications (R13s).

Date: September 5, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Applications (R13s).

Date: September 5, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call)

Contact Person: RoseAnne M McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

(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: July 8, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17676 Filed 7–12–02; 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, July 10, 2002, 8:30 a.m. to July 10, 2002, 5 p.m., Monarch Hotel, 2400 M Street, NW., Washington, DC 20037 which was published in the **Federal Register** on June 18, 2002, 67 FR 41437–41439.

The meeting has been changed to August 2, 2002. The time and location remain the same. The meeting is closed to the public.

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17656 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 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: Center for Scientific Review Special Emphasis Panel, ZRG1 RESP (02) (Review of Deferred Application).

Date: July 10, 2002.

Time: 9:30 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

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: Center for Scientific Review Special Emphasis Panel, ZRG1 ALTX–4 (02).

Date: July 16, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–2359, *shayiqr@csr.nih.gov.*

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: Center for Scientific Review Special Emphasis Panel, ZRG1 CAMP (06) Chemotherapeutic Drug Delivery.

Date: July 26, 2002.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverse@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–17661 Filed 7–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Heatlh Service

National Toxicology Program; National Toxicology Program Board of Scientific Counselors Technical Reports Review Subcommittee Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors Technical Reports Review Subcommittee on September 5 and 6, 2002, in the Rodbell Auditorium, Rall Building, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 a.m. each day.

Agenda

The primary agenda topic is the peer review of seven draft Technical Reports (TR) of rodent toxicology and carcinogenesis studies conducted by the NTP. The reports are listed in the table below in the tentative order of their review for each day. The NTP Technical Reports will be reviewed over two days: reports numbered TR 510 to TR 514 on September 5 and reports numbered TR 516 and TR 517 on September 6. There will also be brief presentations on September 6 concerning the use of transgenic models in carcinogenic hazard identification and NTP studies.

The agenda and roster of subcommittee members will be available prior to the meeting on the NTP Web home page at *http://ntp-server.niehs.nih.gov* and upon request to the NTP Executive Secretary, Dr. Mary S. Wolfe, P.O. Box 12233, 111 T.W. Alexander Dr., MD A3–01, Research Triangle Park, NC 27709, T: 919–541–0295; e-mail: *wolfe@nieh.nih.gov.* Following the meeting, summary minutes will be available on the NTP Web home page and in hard copy upon request to the Executive Secretary. Plans are also underway for making this meeting available for viewing on the Internet *(http://www.niehs.nih.gov/external/video.htm).*

The NTP Board of Scientific Counselors Technical Reports Review Subcommittee meeting is open to the public. Attendance at this meeting is limited only by the space available. Individuals who plan to attend are asked to register with the NTP Executive Secretary (*see* contact information above). The names of those registered to attend will be given to the NIEHS Security Office in order to gain access to the campus. Persons attending who have not pre-registered may be asked to provide pertinent information about the meeting, *i.e.,* title or host of meeting before gaining access to the campus. All visitors (whether or not you are pre-registered) will need to be prepared to show 2 forms of identification (ID), *i.e.,* driver's license and one of the following: company ID, government ID, or university ID. Also, those planning to attend who need special assistance are asked to notify the NTP Executive Secretary in advance of the meeting (*see* contact information above).

Draft Reports Available for Public Review and Comment

Approximately five weeks prior to the meeting, the draft reports will be available for public review, free of charge, through the Environmental Health Perspectives (EHP) at *http://ehp.niehs.nih.gov/.* Printed copies can be obtained, as available, from Central Data Management (CDM), NIEHS, 111 T.W. Alexander Dr., P.O. Box 12233, MD EC–03, Research Triangle Park, NC 27709, t: 919–541–3419, fax: 919–541–3687, e-mail: *CDM@niehs.nih.gov.*

Comments on any of the NTP Technical Reports are welcome. Time will be provided at the meeting for public comment on each of the reports under review. In order to facilitate planning for the meeting, persons requesting time for an oral presentation on a particular report are asked to notify the Executive Secretary at 919–541–0530, fax: 919–541–0295, e-mail: *wolfe@niehs.nih.gov.* Persons registering to submit comments are asked to provide a written copy of their statement to the Executive Secretary on or before August 28, 2002, to enable review by the Subcommittee and NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation or may be submitted in lieu of an oral presentation. Each submitter is asked to provide his/her name, affiliation, mailing address, phone, fax, e-mail, and supporting organization (if any). Each speaker will be allotted at least seven minutes and, if time permits, up ten minutes for presentation of oral comments. Each organization is allowed one time slot per report being reviewed. Registration for making public comments will also be available on-site. If registering on-site to speak and read comments from printed copy, the speaker is asked to provide 25 copies of the statement. These copies will be distributed to the Subcommittee and NTP staff and will supplement the record.

Request for Additional Information

The NTP would welcome receiving toxicology and carcinogenesis information from completed, ongoing or planned studies as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please send this information to CDM at the address given above. CDM will forward the information to the appropriate NTP staff scientist.

NTP Technical and Toxicity Report Series

The NTP conducts toxicology and carcinogenesis studies of agents of public health concern. Any scientist, organization, or member of the public may nominate a chemical for NTP testing. Details about the nomination process are available on the NTP Web site (*http://ntp-server.niehs.nih.gov*). The results of short-term rodent toxicology studies are published in the NTP Toxicity Report series. Longer-term studies, generally, rodent carcinogenicity studies, are published in the NTP Technical Report series. Study abstracts for all reports are available at the NTP Web site under NTP Study Information. Hard copies and PDF files of published reports can be obtained through subscription to the EHP (*http://ehp.niehs.nih.gov/* or 1–800–315–3010).

NTP Board of Scientific Counselors

The Board is a technical advisory body composed of scientists from the public and private sectors who provide primary scientific oversight and peer review to the NTP. Specifically, the Board advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and overall scientific quality. The Technical Reports Review Subcommittee of the Board provides scientific peer review of the findings and conclusions of NTP Technical Reports. The Report on Carcinogens Subcommittee of the Board provides scientific peer review of nominations to the *Report on Carcinogens,* a Congressionally mandated listing of agents known or reasonably anticipated to be human carcinogens.

The Board's members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral and neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. The NTP strives for equitable geographic distribution and minority and female representation on the Board.

Dated: July 5, 2002.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS TECHNICAL REPORTS REVIEW SUBCOMMITTEE ON SEPTEMBER 5–6, 2002

Chemical CAS No.	Report No.	Primary uses	Route & exposure levels	Review order
September 5, 2002:				
Dipropylene glycol, 25265–71–8.	TR 511	A component of air and room fresheners, household cleansers, cosmetic formulations, auto paints, and antifreeze.	Two-year exposure via drinking water: 2,500, 10,000, or 40,000 ppm to male and female F344/N rats and 10,000, 20,000, or 40,000 ppm to male and female B6C3F1 mice.	1
Elmiron, 37319–17–8	TR 512	Used in treatment of thrombosis and hyperlipidemia and for relief of urinary bladder pain associated with interstitial cystitis.	Two-year exposure by gavage in deionized water: 14, 42, or 126 mg/kg body weight to male F344/N rats; 28, 84, or 252 mg/kg to female F344/N rats; 56, 168, or 504 mg/kg to male and female B6C3F1 mice.	2
Decalin, 91–17–8	TR 513	An industrial solvent for fats, resins, oils, waxes, and naphthalene; a substitute for turpentine; a constituent of motor fuels and lubricants.	Two-year inhalation exposure (25, 100, or 400 ppm in air) to male and female F344/N rats and B6C3F1 mice.	3
Urethane + ethanol, 51–79–6, 64–17–5.	TR 510	Urethane is a by-product of fermentation and occurs in breads and alcoholic beverages. The effect of urethane was studied in combination with alcohol (ethanol).	Two-year drinking water exposures of 10, 30, or 90 ppm urethane in 0, 2.5%, or 5% ethanol mixtures to male and female B6C3F1 mice.	4
Cinnamaldehyde, 14371–10–9.	TR 514	A flavoring and fragrance ingredient; the primary component of cinnamon oil.	Two-year exposure of microencapsulated chemical in feed (1,000, 2,100, or 4,100 ppm) to male and female F344/N rats and B6C3F1 mice.	5
September 6, 2002:				
Trimethylolpropane triacrylate, 15625–89–5.	TR 516	A representative multifunctional acrylate used in photocurable inks and coatings, acrylic glues, paper and wood impregnates, wire and cable extrusion, and polymer-concrete composites.	Six-month dermal applications (0.75, 1.5, 3, 6, or 12 mg/kg body weight) to male and female Tg.AC hemizygous mice.	6
Pentaerythritol triacrylate, 3524–68–3.	TR 517	Representative multifunctional acrylate used in photocurable inks and coatings and as an ingredient of acrylic glues, adhesives, and sealants.	Six-month dermal applications (0.75, 1.5, 3, 6, or 12 mg/kg body weight) to male and female Tg.AC hemizygous mice.	7

[FR Doc. 02–17655 Filed 7–12–02; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

2003 National Survey on Drug Use and Health—(0930–0110, Revision)—The National Survey on Drug Use and Health (NSDUH), formerly the National Household Survey on Drug Abuse (NHSDA), is a survey of the civilian, noninstitutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy, other Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

For the 2003 NSDUH, additional questions are being added regarding types of schooling (e.g., public versus private). Several questions using ''item count'' methodology to estimate use of

specific hard-core drugs are slated to be removed. The remaining modular components of the questionnaire will remain essentially unchanged except for minor modifications to wording. In the first quarter of 2003 there will be a field test of the usability of updated computer equipment for screening and interviewing to ensure that the new equipment can be successfully used by both the field interviewing staff and respondents.

As with all NSDUH/NHSDA surveys conducted since 1999, the sample size of the survey for 2003 will be sufficient to permit prevalence estimates for each of the fifty states and the District of Columbia. The total annual burden estimate is shown below:

	Number of responses	Responses per respondent	Average burden per response (hr)	Total burden (hrs.)
Household Screening	182,250	1	0.083	15,127
Interview and Verification Form	67,500	1	1.0	67,500
Electronic Screening—Field Test	1,440	1	0.083	120
Interview and Verification Form—Field Test	384	1	1.0	384
Screening Verification*	5,603	1	0.067	375
Interview Verification*	10,183	1	0.067	682
Total	202,500			84,188

*Includes cases from Field Test sample.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Herron Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 9, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–17626 Filed 7–12–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Assessment

AGENCY: Fish And Wildlife Service, Department of the Interior.

ACTION: Notice of intent to prepare an Environmental Assessment under the National Environmental Policy Act and Notice of Public Meeting on Tidal Marsh Restoration Planning at Cullinan Ranch, San Pablo Bay National Wildlife Refuge, Solano and Napa Counties, California.

SUMMARY: In accordance with National Environmental Policy Act of 1969, as amended (NEPA) regulations (40 CFR 1501.7), this notice advises other agencies, Tribes, and the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare environmental documentation on a proposed tidal marsh restoration project at Cullinan Ranch, a unit of the San Pablo Bay National Wildlife Refuge (Refuge), Solano and Napa Counties, California. Interested persons are encouraged to submit written comments and/or attend a public scoping meeting to identify and discuss issues and alternatives that should be addressed. The Service intends to prepare an Environmental Assessment for this project. However, if the Service determines that the project would result in significant impacts, the Service will prepare an Environmental Impact Statement. The purpose of the scoping meeting is to describe restoration alternatives, identify the scope of issues that need to be addressed, and discuss important issues related to tidal marsh restoration at Cullinan Ranch.

DATES: A public scoping meeting will be held on August 7, 2002, from 7 p.m. to 9 p.m., see **ADDRESSES** for location. Written comments related to the scope and content of environmental documentation should be received by the Service at the Newark address below by August 14, 2002.

ADDRESSES: The public meeting will be held at the Mare Island Elementary School, 9th and Tisdale Streets, Vallejo, CA 94591. Written comments may also be mailed to Margaret T. Kolar, Refuge Complex Manager, San Francisco Bay National Wildlife Refuge Complex, PO Box 524, Newark, California 94560.

FOR FURTHER INFORMATION CONTACT: Mike Parker, Deputy Project Leader, San Francisco Bay NWR Complex, (510) 792–0222.

SUPPLEMENTARY INFORMATION: The Cullinan Ranch restoration project would restore approximately 1,500 acres of diked baylands back to historic tidal conditions by reintroducing tidal flow into the project area. This area, Cullinan Ranch, also known as the Napa Marsh Unit of the San Pablo Bay National Wildlife Refuge (Refuge), is located in an area of the Napa River Delta that was historically defined by a network of meandering sloughs and extensive estuarine tidal marshes. Reintroduction of tidal flow will restore vital salt marsh habitat for endangered species, including the salt marsh harvest mouse (Reithrodontomys raviventris) and the California clapper rail (Rallus longirostris obsoletus), as well as provide roosting and foraging habitat for migratory waterbirds.

The proposed restoration is based on the concept that reintroducing tidal waters will naturally develop salt-water marsh habitat conditions. The existing perimeter levee currently prevents tidal flows into the area and as a result, the land has subsided several feet in elevation and becomes inundated with freshwater during the rainy season. Once restored, twice-daily tidal flows would carry and deposit sediment, establishing marsh plain elevations sufficient to support tidal marsh vegetation. As tidal waters enter and exit the site, tidal channels would develop. Continued tidal action would maintain an active exchange of water, sediment and nutrients between the marsh habitat and the Bay, further enhancing the value of the habitat for plants and wildlife.

In keeping with one of the purposes of the Refuge ''* * * to conserve fish, wildlife, or plants which are listed as endangered species or threatened species,'' the Cullinan Ranch restoration project would restore historic salt marsh habitat for the benefit of threatened and endangered species as well as many other estuarine-dependent species.

Location

Located within the Refuge, the Cullinan Ranch is bordered by the South and Dutchman Sloughs to the north and State Route 37 to the south. California Department of Fish and Game Pond 1 borders Cullinan Ranch to the west. Guadalcanal Village Wetlands (Guadalcanal), which is owned by the State of California and is currently being restored to tidal marsh, borders Cullinan Ranch to the east.

Project Components

Specific components of Cullinan Ranch tidal marsh restoration follow.

1. Blocking drainage ditches with earthen fill to promote redevelopment of the historical sloughs on the project site.
2. Reinforcing two Pacific Gas & Electric transmission tower footings to protect them from possible damage from tidal flows when the levee is breached.
3. Constructing and reinforcing an existing levee adjacent to State Route 37 and California Department of Fish and Game (CDFG) Pond 1, to protect these areas from flooding and erosion during high water conditions.
4. Breaching the northern levee adjacent to South and Dutchman sloughs to introduce historic tidal flow to the site.
5. Long-term monitoring of wildlife, plants, hydrology, and geomorphology.

Public Meetings

With the publication of this notice, the public is encouraged to attend public meetings and submit written comments for consideration in developing design alternatives for restoration at Cullinan Ranch. Format for the public meeting will be a presentation on proposed design alternatives followed by a workshop to gather public comments. Comments received shall be used to identify issues and draft preliminary alternatives.

Dated: July 8, 2002.

D. Kenneth McDermond,

Acting Manager, California/Nevada Operations, Sacramento, California.

[FR Doc. 02–17603 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–090–1610–PG; DBG–0200001]

Notice of Public Meeting, Lower Snake River District Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Lower Snake River District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held August 14, 2002 at the Lower Snake River District Office, located at 3948 Development Avenue, Boise, Idaho, beginning at 9 a.m. The public comment periods will be held after each topic. The meeting is expected to adjourn at 4 p.m.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, Lower Snake River District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in southwestern Idaho. At this meeting, topics we plan to discuss include:

Subgroup reports on OHV initiative, river recreation and resource management plans; Panel discussion regarding sage grouse habitat management; Update on Mormon Cricket EA, treatments and plans for 2003; and Update on the two Resource Management Plans under development in the District.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

Dated: July 2, 2002.

Sandy Guches,

Acting District Manager.

[FR Doc. 02–17617 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–200–02–1020–00]

Science Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Land Management (BLM) announces a public meeting of the Science Advisory Board to discuss the Science Advisory Board workplan, science strategy implementation, and the framework for the curriculum proposal.

DATES: BLM will hold the public meeting on Monday, August 5, from 8 a.m. to 4:30 p.m. local time.

ADDRESSES: BLM will hold the public meeting at the Training Room at the Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Lee Barkow, Bureau of Land Management, Denver Federal Center, Building 50, P.O. Box 25047, Denver, CO 80225–0047, 303–236–6454.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463).

I. The Agenda for the Public Meeting is as Follows

8 a.m.—Welcome and Introductions
8:15 a.m.—Director's Comments
8:45 a.m.—Department's Comments
9:15 a.m.—Science in Alaska
10 a.m.—SAB Workplan Discussion and Approval
10:45 a.m.—Update on Science Strategy Implementation
1 p.m.—Discuss the Science Strategy Implementation Paper and Comment
2 p.m.—Discuss the Peer Review Paper and Comment
3:15 p.m.—Discuss the Framework for a Curriculum Proposal
4 p.m.—Public Comment
4:30 p.m.—Adjourn

II. Public Comment Procedures

Participation in the public meeting is not a prerequisite for submittal of written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on BLM's use of science are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and

regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom on Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by the law. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or business will be in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address: Commenters may transmit comments electronically via the Internet to: *lee_barkow@blm.gov.* Please include the identifier ''Science4'' in the subject of your message and your name and address in the body of your message.

III. Accessibility

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Lee Barkow,

Director, National Science and Technology Center.

[FR Doc. 02–17684 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Memorial Commission; Notice of Public Meeting

AGENCY: Department of the Interior, National Park Service, National Capital Memorial Commission.

ACTION: Notice of meeting.

SUMMARY: 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 10 a.m., on Wednesday, July 31, 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 Memorial to President John Adams and his Legacy (Pub. L. 107–62, November 5, 2001).

(2) Continuation of consideration of the 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.

(3) Legislative Proposals introduced in the 107th Congress to establish memorials in the District of Columbia and its environs.

Other Business

General matters and routine business.

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, Secretary to the Commission, at (202) 619–7097.

DATES: July 31, 2002.

ADDRESSES: Room 312, National Building Museum, 5th and F Streets, NW., Washington, D.C., 20001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Young, Secretary to the Commission, 202–619–7097.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 99–652, the Commemorative Works Act (40 U.S.C. 1001 *et. seq*), 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

Dated: June 26, 2002.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 02–17604 Filed 7–12–02; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–444]

Oil and Gas Field Services: Impediments to Trade and Prospects for Liberalization

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: July 8, 2002.

SUMMARY: Following receipt of a request on June 18, 2002, from the United States Trade Representative (USTR), the Commission instituted investigation No. 332–444, Oil and Gas Field Services: Impediments to Trade and Prospects for Liberalization, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Joann Tortorice,

Project Leader (202–205–3032; *jtortorice@usitc.gov),* Amanda Horan, Deputy Project Leader (202–205–3459; *ahoran@usitc.gov),* or Richard Brown, Chief, Services and Investment Division (202–205–3438; *rbrown@usitc.gov*), Office of Industries, U.S. International Trade Commission, Washington, DC, 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091; *wgearhart@usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

Background: As requested by the USTR, in its report the Commission will (1) describe the various activities involved in the provision of oil and gas field services; (2) describe the nature of trade in oil and gas field services; and (3) examine the extent of impediments to trade and potential benefits of trade liberalization. Since oil and gas field services are conducted in a large number of countries, USTR has requested that the Commission's study focus on issues that could be relevant multilaterally.

For the purpose of this study, oil and gas field services are broadly defined to include evaluation and exploration activities; drilling activities; and well development and completion activities. The letter follows similar requests made by the USTR in November 1999 and February 2001 for the Commission to conduct investigations on electric power services and natural gas services in selected foreign markets. The Commission submitted its report on electric power services to the USTR on November 23, 2000, and on natural gas services on October 16, 2001. Copies of these reports may be obtained by contacting the Office of the Secretary at 202–205–2000 or by accessing the USITC Internet server ww.usitc.gov). The USTR asked that the Commission furnish its report by March 18, 2003, and that the Commission make the report available to the public in its entirety.

Public Hearing: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on October 1, 2002. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than 5:15 p.m., September 17, 2002. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., September 19, 2002; the deadline for filing post-hearing briefs or statements is 5:15 p.m., October 22, 2002. In the event that, as of the close of business on September 17, 2002, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–205–1806) after September 17, 2002, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission will not include any confidential business information in the report it sends to the USTR. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on October 22, 2002. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

List of Subjects

WTO, GATS, Oil and gas field services.

Issued: July 9, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–17644 Filed 7–12–02; 8:45 am]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena scheduled for July 17–18, 2002 has been changed to a one day meeting, which will be held on Wednesday, July 17, 2002 at 8:30 a.m. in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The Subcommittee will continue its review of the NRC Office of Nuclear Regulatory Research (RES) draft Regulatory Guide, DG–1120, ''Transient and Accident Analysis Methods''. The Subcommittee will also discuss the status of the RES experimental program pertaining to subcooled flow boiling phenomena.

Notice of this meeting was published in the **Federal Register** on Tuesday, July 2, 2002 (67 FR 44478). All other items pertaining to this meeting remain the same as previously published.

For further information contact: Mr. Paul A. Boehnert, Senior Staff Engineer (telephone 301–415–8065 or e-mail: *PAB2@nrc.gov*) between 7:30 a.m. and 5 p.m. (EDT).

Dated: July 9, 2002.

Sher Bahadur,

Associate Director for Technical Support.

[FR Doc. 02–17645 Filed 7–12–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guides; Withdrawal

The Nuclear Regulatory Commission is withdrawing Draft Regulatory Guide DG–4006, ''Demonstrating Compliance with the Radiological Criteria for License Termination,'' from consideration as a regulatory guide. DG–4006 was published for public comment in August 1998.

This draft guide was issued to propose guidance on demonstrating compliance with radiological criteria at the sites of licensees who wish to terminate their licenses and release their sites. Appendix D of NUREG–1727,

''NMSS Decommissioning Standard Review Plan,'' published in September 2000, incorporates the guidance that was proposed in DG–4006.

Regulatory guides may be withdrawn when they are superseded by the Commission's regulations, when equivalent recommendations have been incorporated in applicable approved codes and standards, or when changes in methods and techniques or in the need for specific guidance have made them obsolete.

Comments and suggestions are encouraged at any time in connection with guides currently being developed or published guides. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (5 U.S.C. 552(a))

Dated at Rockville, Maryland this 3rd day of July 2002.

For the Nuclear Regulatory Commission.

Farouk Eltawila,

Director, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. 02–17646 Filed 7–12–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Opportunity To Comment on Model Safety Evaluation on Technical Specification Improvement To Revise the Completion Time From 1 Hour To 24 Hours for Condition B of Technical Specification 3.5.1, ''Accumulators,'' and Its Associated Bases, Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model safety evaluation (SE) relating to the modification of the completion time from 1 hour to 24 hours for Condition B of Technical Specification (TS) 3.5.1, ''Accumulators,'' and its associated Bases. The NRC staff has also prepared a model no significant hazards consideration (NSHC) determination relating to this matter. The purpose of these models is to permit the NRC to efficiently process amendments that propose to revise the completion time from 1 hour to 24 hours for Condition B of TS 3.5.1, ''Accumulators,'' and its associated Bases. Licensees of nuclear power reactors to which the models apply could request amendments confirming the applicability of the SE and NSHC determination to their reactors. The NRC staff is requesting comments on the model SE and model NSHC determination prior to announcing their availability for referencing in license amendment applications.

DATES: The comment period expires August 14, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail.

Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received may be examined at the NRC's Public Document Room, 11555 Rockville Pike (Room O–1F21), Rockville, MD.

Comments may be submitted by electronic mail to *CLIIP@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Girija Shukla, Project Manager, Mail Stop: O–7E1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–8439.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The consolidated line item improvement process (CLIIP) is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the standard technical specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. This notice is soliciting comment on a proposed change to the STS that modifies requirements regarding missed surveillances. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to technical specifications are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability would be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the revision of the accumulators completion time from 1 hour to 24 hours in TSs. This proposed change was proposed for incorporation into the STSs by all Owners Groups participants in the Technical Specification Task Force (TSTF) and is designated TSTF–370. TSTF–370 can be viewed on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/techspecs/.*

Applicability

This proposed change to modify TS to revise the accumulators completion time from 1 hour to 24 hours is applicable to all Westinghouse nuclear steam supply system (NSSS) plants regardless of plant vintage and number of loops.

The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the attached model SE and the NSHC. Variations from the approach recommended in this notice may, however, require additional review by the NRC staff and may increase the time and resources needed for the review.

Public Notices

This notice requests comments from interested members of the public within 30 days of the date of publication in the **Federal Register**. Following the staff's evaluation of comments received as a result of this notice, the staff may reconsider the proposed change or may proceed with announcing the availability of the change in a subsequent notice (perhaps with some changes to the safety evaluation or proposed no significant hazards consideration determination as a result of public comments). If the staff announces the availability of the change, licensees wishing to adopt the change will submit an application in

accordance with applicable rules and other regulatory requirements. The staff will in turn issue for each application a notice of consideration of issuance of amendment to facility operating license(s), a proposed no significant hazards consideration determination, and an opportunity for a hearing. A notice of issuance of an amendment to operating license(s) will also be issued to announce the revision to the completion time for Condition B of TS 3.5.1, ''Accumulators,'' and its associated Bases for each plant that applies for and receives the requested change.

Proposed Safety Evaluation

U.S. Nuclear Regulatory Commission

Office of Nuclear Reactor Regulation

Consolidated Line Item Improvement, Technical Specification Task Force (TSTF) Change TSTF–370, Risk-Informed Evaluation of an Extension to Accumulator Completion Times for Westinghouse Plants

1.0 INTRODUCTION

The Nuclear Energy Institute (NEI) Technical Specification Task Force (TSTF) has proposed a generic change to the standard technical specifications (STSs) (NUREG–1431) on behalf of the industry. This proposed generic technical specifications (TSs) change, identified by TSTF–370, will revise the completion time (CT) from 1 hour to 24 hours for Condition B of Technical Specification (TS) 3.5.1, ''Accumulators,'' and its associated Bases. Condition B of TS 3.5.1 currently specifies a CT of one hour to restore a reactor coolant system (RCS) accumulator to operable status when declared inoperable due to any reason except not being within the required boron concentration range.

2.0 BACKGROUND

Topical Report WCAP–15049, ''Risk-Informed Evaluation of an Extension to Accumulator Completion Times,'' was submitted to the NRC on August 20, 1998, and approved in the NRC letter dated February 19, 1999. The WCAP evaluates the risk associated with extending the accumulator CT from 1 hour to 24 hours for reasons other than boron concentration out of specification.

Wolf Creek was the lead plant for the Westinghouse Owners Group (WOG) program and received plant specific approval for changes to the TSs on April 27, 1999 (License Amendment No. 124). In the NRC letter of February 19, 1999, the staff indicated that it will not repeat its review of the matters described in Topical Report WCAP–15049 when the report appears as a reference in license applications, except to ensure that the material presented applies to the specified plants involved.

The proposed change revises the CT from 1 hour to 24 hours for Condition B of TS 3.5.1, ''Accumulators,'' and its associated Bases. Condition B of TS 3.5.1 currently specifies a CT of one hour to restore a RCS accumulator to operable status when declared inoperable due to any reason except not being within the required boron concentration range.

3.0 EVALUATION

Deterministic Evaluation

The purpose of the emergency core cooling system (ECCS) accumulators is to supply water to the reactor vessel during the blowdown phase of a loss-of-coolant accident (LOCA). The accumulators are large volume tanks, filled with borated water and pressurized with nitrogen. The cover-pressure is less than that of the reactor coolant system so that following an accident, when the reactor coolant system pressure decreases below tank pressure, the accumulators inject the borated water into the RCS cold legs. The current deterministic safety analysis has not been changed, and thus the limiting condition of operation (LCO), *i.e.,* the lowest functional capability required for safe operation continues to be:

''LCO 3.5.1, [Four] ECCS accumulators shall be operable.

Applicability: Modes 1 and 2, Mode 3 with RCS pressure > [1000] psig.''

Where the bracketed information is nominal, and is subject to substitution of plant specific values.

Under Actions, TSs allow for limited deviations from the LCO. Historically, these Actions and associated CTs have been set using judgement and are not part of the deterministic safety analysis discussed above. Currently, the TS allows for one accumulator to be inoperable for one hour for reasons other than boron concentration not within limits during Modes 1, 2, and in Mode 3 with pressurizer pressure > a plant specific pressure. The WCAP, as well as this TSTF, proposes to increase this CT to 24 hours. The proposed CT of 24 hours is an extension of the current ACTION statement. CTs are by their nature determined by conditions of risk and the impact of the proposed change on risk is reviewed in the following section.

Risk Evaluation

A three-tiered approach, consistent with RG 1.177,[1] was used by the staff to evaluate the risk associated with the proposed accumulator CT, or allowed outage time (AOT), extension from 1 hour to 24 hours. The need for the proposed change was that the current one-hour CT would be insufficient in most cases for licensees to take a reasonable action when an accumulator was found to be inoperable.

Tier 1: Quality of Probabilistic Risk Assessment (PRA) and Risk Impact

Westinghouse used a reasonable approach to assess the risk impact of the proposed accumulator CT extension. The approach is generally consistent with the intent of the applicable NRC RGs 1.174[2] and 1.177. The quantitative risk measures addressed in the topical report included the change in core damage frequency (CDF) and incremental conditional core damage probability (ICCDP[3]) for a single CT. The change in large early release frequency (LERF) and incremental conditional large early probability (ICLERP[4]) for a single CT was qualitatively addressed. Representative calculations were performed to determine the risk impact of the proposed change. Various accumulator success criteria were considered in these calculations to encompass the whole spectrum of Westinghouse plants, *e.g.,* two-, three- and four-loop plants. A reasonable effort was also made to address the differences in other components of risk analysis such as initiating event (IE) frequency and accumulator unavailability among Westinghouse plants.

Westinghouse considered a comprehensive range of IEs in the risk analysis. LOCAs in all sizes—large, medium and small—were included, and reactor vessel failure and interfacing system LOCA were also considered. Modeling of accumulators for mitigation of events other than large, medium and small LOCAs was identified to have insignificant risk impact; therefore, the analysis was performed only on

[1] RG 1.177, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications,'' September 1998.

[2] RG 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' July 1998.

[3] ICCDP = [(conditional CDF with the subject equipment out-of-service)—(baseline CDF with nominal expected equipment unavailabilities) x (duration of single CT under consideration)].

[4] ICLERP = [(conditional LERF with the subject equipment out-of-service)—(baseline LERF with nominal expected equipment unavailabilities) x (duration of single CT under consideration)].

accumulator injection in response to large, medium and small LOCA events.

The success criteria considered are summarized as follows:

LOCA category	No. of loops	Success criteria
Large	4	3 accumulators to 3 of 3 intact loops (3/3); 2 accumulators to 2 of 3 intact loops (2/3); no accumulators required (0/3).
	3	2 accumulators to 2 of 2 intact loops (2/2); 1 accumulator to 1 of 2 intact loops (1/2); no accumulators required (0/2).
Medium and Small	2	1 accumulator to 1 of 1 intact loop (1/1); no accumulators required (0/1).
	4	3 accumulators to 3 of 3 intact loops (3/3).
	3	2 accumulators to 2 of 2 intact loops (2/2).
	2	1 accumulator to 1 of 1 intact loop (1/1).

The success criteria considered in this analysis were comprehensive and considered conservative in many cases. For example, many plants indicated the accumulator success criteria for medium and small LOCA events resulted from their role in an alternate success path, in which high pressure injection (HPI) had already failed. Additionally, the staff's review of a number of the original individual plant examinations (IPEs) indicated that no accumulator was needed at all for many medium LOCA sequences and for most of small LOCA sequences.

The fault trees that model accumulator unavailabilities were evaluated. The assumptions made in the fault tree modeling were detailed and were found to be reasonable. For example, the model assumed that the total CT would be used for each corrective maintenance, and this was considered conservative. A comprehensive list of failure mechanisms was considered, and potential common cause failures for check valves and motor-operated valves were also included. Westinghouse used the Multiple Greek Letter technique to determine the common cause failure contributions to the accumulator injection failure.

The component failure rates were taken from the Advanced Light Water Utility Requirements Document.[5] Accumulator unavailabilities due to boron concentration out of limit and due to other reasons were calculated based on a survey of a number of Westinghouse plants. The values for component failure rates and accumulator unavailabilities were within reasonable range. The common cause factors used were also comparable to those used in other PRAs. The accumulator fault trees were quantified using the WesSAGE computer code. The code provided information on the unavailability and cutsets related to the component failures and maintenance activities modeled in the fault trees. A separate hand calculation was used to determine the unavailability due to potential common cause failures. Evaluation of some of the cutsets provided in the topical report did not reveal any unexpected results.

The staff examined the accident sequence identification for each LOCA category. The probability of the sequence leading to core damage involving accumulator failure is summarized for each LOCA category as follows:

Large LOCA: (Large LOCA IE frequency) x (accumulator unavailability).

Medium LOCA: (Medium LOCA IE frequency) x (unavailability of HPI) x (accumulator unavailability).

Small LOCA: (Small LOCA IE frequency) x (unavailability of HPI) x (accumulator unavailability).

The LOCA IE frequencies used for WCAP–15049 are summarized below. Also listed are the LOCA frequencies used in NUREG/CR–4550[6] (the NUREG–1150 study) for pressurized water reactors (PWRs) and those in the original IPEs.

	WCAP–15049	NUREG–1150	IPE Average (High; Low)
Large LOCA	3 x $^{-4}$/yr	5 x 10^{-4}/yr	3.3 x 10^{-4}/yr (5 x 10^{-4}/yr; 1 x 10^{-5}/yr).
Medium LOCA	8 x 10^{-4}/yr	1 x 10^{-3}/yr	7.9 x 10^{-4}/yr (2.6 x 10^{-3}/yr; 1 x 10^{-4}/yr).
Small LOCA	7 x 10^{-3}/yr	1 x 10^{-3}/yr	8.9 x 10^{-3}/yr (2.9 x 10^{-2}/yr; 3.7 x 10^{-4}/yr).

Westinghouse indicated that the IE frequencies for WCAP–15049 were based on the plant-specific information contained in the Westinghouse Owners Group (WOG) PSA Comparison Database, which documented the PRA modeling methods and results of the updated PRAs for Westinghouse plants. The mean IE frequencies were used for the risk analysis. These were comparable to the values used for the NUREG–1150 study and the average values in the original IPEs. The staff also found that the IE frequency values in high range among the original IPEs were not much higher than those used for this topical report. The HPI unavailability values used were 7 x 10^{-3} and 1 x 10^{-3}/yr for medium and small LOCA events, respectively. The staff's examination revealed that the HPI unavailability values were generally comparable to those used in other PRAs, and were generally conservative.

The risk measures calculated to determine the impact on plant risk were based on three different cases. The risk measures considered in each case included the impact on CDF and ICCDP for a single CT, and the impact on LERF and ICLERP for a single CT were qualitatively considered. The three cases considered were:

Design basis case. This case required accumulator injection only for mitigation of large LOCA events (3/3 for 4-loop, 2/2 for 3-loop, and 1/1 for 2-loop).

Case 1. This case credited realistic accumulator success criteria (2/3 for 4-loop, 1/2 for 3-loop, and 0/1 for 2-loop) for large LOCA events and credited the use of accumulators in responding to medium and small LOCA events (3/3, 2/

[5] ''Advanced Light Water Utility Requirements Document,'' Volume II, ALWR Evolutionary Plant, Chapter 1, Appendix A, PRA Key Assumptions and Ground Rules, Rev. 5, Issued December 1992.

[6] NUREG/CR–4550, ''Analysis of Core Damage Frequency: Internal Events Methodology,'' Vol. 1, Rev. 1, January 1990.

2, and 1/1 for 4-loop, 3-loop, and 2-loop, respectively) following failure of HPI.

Case 2. This case credited more realistic improved accumulator success criteria (no accumulator required) for large LOCA events and credited the use of accumulators in responding to medium and small LOCA events (3/3, 2/2, and 1/1 for 4-loop, 3-loop, and 2-loop, respectively) following failure of HPI.

The results were summarized as follows:

Case	LOCA CDF (/yr) (Current)	LOCA CDF (/yr) (Proposed)	ΔCDF	ICCDP
4-loop Design Basis	6.93×10^{-7}	9.24×10^{-7}	2.31×10^{-7}	8.20×10^{-7}
4-loop Case 1	6.23×10^{-8}	7.77×10^{-8}	1.54×10^{-8}	5.53×10^{-8}
4-loop Case 2	4.57×10^{-8}	6.09×10^{-8}	1.52×10^{-8}	5.41×10^{-8}
3-loop Design Basis	4.62×10^{-7}	6.18×10^{-7}	1.56×10^{-7}	8.21×10^{-7}
3-loop Case 1	4.27×10^{-8}	5.31×10^{-8}	1.04×10^{-8}	5.48×10^{-8}
3-loop Case 2	3.05×10^{-8}	4.08×10^{-8}	1.03×10^{-8}	5.42×10^{-8}
2-loop Design Basis	2.31×10^{-7}	3.09×10^{-7}	7.80×10^{-8}	8.21×10^{-7}
2-loop Case 1	1.52×10^{-8}	2.04×10^{-8}	5.20×10^{-9}	5.42×10^{-8}
2-loop Case 2	1.52×10^{-8}	2.04×10^{-8}	5.20×10^{-9}	5.42×10^{-8}

For both realistic cases, the ΔCDFs and ICCDPs were very small for 2-loop, 3-loop, and 4-loop plants, and were much below the numerical guidelines in the RGs 1.174 and 1.177. The staff also noted that the values were considered still bounding in the sense that the risk analysis used a multitude of conservative assumptions and data in the modeling. For many Westinghouse plants, the realistic impact on risk would be much smaller than the values above.

A set of sensitivity cases were also calculated using higher IE frequencies for small and medium LOCAs. The results of the sensitivity calculations did not cause the overall risk impact to increase significantly.

Westinghouse indicated that accumulator success or failure has no direct impact on the containment performance, and that the LERF would therefore increase only in direct proportion to the increased CDF due to accumulator failures. Westinghouse concluded that, since the impact on CDF was small, the impact on LERF would also be small. The staff found the Westinghouse argument to be acceptable; therefore, the impact on LERF and ICLERP for a single CT was very small.

One of the potential benefits of the proposed extended CT was the averted risk associated with avoiding a forced plant shutdown and startup. The risk associated with a forced plant shutdown and ensuing startup due to the inflexibility in current TS could be significant in comparison with the risk increase due to the proposed accumulator CT increase.

Based on the staff's Tier 1 review, the quality of risk analysis used to calculate the risk impact of the proposed accumulator CT extension was reasonable and generally conservative. It was also found that the risk impact of the proposed change was below the staff guidelines in RGs 1.174 and 1.177.

Tier 2 and 3: Configuration Risk Control

Tier 2 of RG 1.177 addresses the need to preclude potentially high risk configurations which could result if certain equipment is taken out-of-service during implementation of the proposed TS change (in this case accumulator CT). If such configurations are identified, the licensee should also identify appropriate measures to avoid them.

The accumulators are always needed to mitigate large size LOCAs. Large LOCAs require accumulators to inject as analyzed under Tier 1 in order to avoid core damage. This means that if a large LOCA occurs without the accumulator function, the core will be damaged independently of whether other systems, such as HPI, function properly or not. However, the probability that a large LOCA occurs in the 24-hour CT is extremely small (in the order of 1E–7 or less). Furthermore, no compensatory or other measures are possible. Due to the negligible risk increase associated with this scenario and the fact that there are no measures to take once a large LOCA occurs, no ''high risk'' configurations are associated with this scenario.

In general, medium LOCAs do not require accumulators if at least one HPI train is available. This means that if a medium LOCA occurs when minimum accumulator functionality is unavailable and at the same time HPI is unavailable, the core will be damaged. However, the probability that a medium LOCA occurs in the 24-hour CT and at the same time both trains of HPI are unavailable is extremely small (in the order of 1E–8 or less), because it is assumed that the plant is not operating at power with both HPI trains out-of-service. This assumption is based on current STS that limit operation at power with no HPI capability. Therefore, no Tier 2 restrictions beyond those currently in the STS are deemed necessary.

Tier 3 calls for a program to identify ''risk significant'' configurations beyond those identified in Tier 2 resulting from maintenance or other operational activities and take appropriate compensatory measures to avoid such configurations. Because the accumulator sequence modeling is relatively independent of that for other systems, the Tier 2 analysis by itself is sufficient.

Furthermore, 10 CFR 50.65(a)(4) (Maintenance Rule) requires that licensees assess the risk any time maintenance is being considered on safety-related equipment. This requirement serves the objectives of Tier 3.

In summary, the Tier 2 evaluation did not identify the need for any additional constraints or compensatory actions that, if implemented, would avoid or reduce the probability of a risk-significant configuration. The current TS provisions were found to be sufficient to address the Tier 2 issue. Because the accumulator sequence modeling is relatively independent of that for other systems and the implementation of the Maintenance Rule, the staff concluded that application of Tier 3 to the proposed accumulator CT was not necessary.

The NRC staff finds that the proposed changes will allow safe operation with the changes in CT from 1 hour to 24 hours for Condition B of TS LCO 3.5.1, ''Accumulators,'' and its associated Bases. The NRC staff also finds that the proposed changes are consistent with the incremental conditional core damage probabilities calculated in WCAP–15049 for the accumulator allowed outage time increase and meet the criterion of 5E–07 in RGs 1.174 and 1.177. The analysis and acceptance provided in this SE, as demonstrated by WCAP–15049, covers all Westinghouse NSSS plants regardless of plant vintage and number of loops. The NRC staff, therefore, concludes that the proposed

TSTF–370, Revision 0 changes are acceptable.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the [ ] State official was notified of the proposed issuance of the amendment. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the staff].

6.0 ENVIRONMENTAL CONSIDERATION

The amendment changes a requirement with respect to installation or use of a facility component located within the restricted area as defined in 10 CFR part 20. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration and there has been no public comment on such finding (FR). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

7.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Proposed No Significant Hazards Consideration Determination

Description of Amendment Request: The proposed amendment would change the technical specifications to revise the completion time (CT) from 1 hour to 24 hours for Condition B of TS 3.5.1, ''Accumulators,'' and its associated Bases. Condition B of TS 3.5.1 currently specifies a CT of one hour to restore a reactor coolant system (RCS) accumulator to operable status when declared inoperable due to any reason except not being within the required boron concentration range.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The basis for the accumulator limiting condition for operation (LCO), as discussed in Bases Section 3.5.1, is to ensure that a sufficient volume of borated water will be immediately forced into the core through each of the cold legs in the event the RCS pressure falls below the pressure of the accumulators, thereby providing the initial cooling mechanism during large RCS pipe ruptures. As described in Section 9.2 of the WCAP–15049, ''Risk-Informed Evaluation of an Extension to Accumulator Completion Times,'' evaluation, the proposed change will allow plant operation in a configuration outside the design basis for up to 24 hours, instead of 1 hour, before being required to begin shutdown. The impact of the increase in the accumulator CT on core damage frequency for all the cases evaluated in WCAP–15049 is within the acceptance limit of 1.0E–06/yr for a total plant core damage frequency (CDF) less than 1.0E–03/yr. The incremental conditional core damage probabilities calculated in WCAP–15049 for the accumulator CT increase meet the criterion of 5E–07 in Regulatory Guides (RG) 1.174 and 1.177 for all cases except those that are based on design basis success criteria. As indicated in WCAP–15049, design basis accumulator success criteria are not considered necessary to mitigate large break loss-of-coolant accident (LOCA) events, and were only included in the WCAP–15049 evaluation as a worst case data point. In addition, WCAP–15049 states that the NRC has indicated that an incremental conditional core damage frequency (ICCDP) greater than 5E–07 does not necessarily mean the change is unacceptable.

The proposed technical specification change does not involve any hardware changes nor does it affect the probability of any event initiators. There will be no change to normal plant operating parameters, engineered safety feature (ESF) actuation setpoints, accident mitigation capabilities, accident analysis assumptions or inputs.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. As described in Section 9.1 of the WCAP–15049 evaluation, the plant design will not be changed with this proposed technical specification CT increase. All safety systems still function in the same manner and there is no additional reliance on additional systems or procedures. The proposed accumulator CT increase has a very small impact on core damage frequency. The WCAP–15049 evaluation demonstrates that the small increase in risk due to increasing the accumulator allowed outage time (AOT) is within the acceptance criteria provided in RGs 1.174 and 1.177. No new accidents or transients can be introduced with the requested change and the likelihood of an accident or transient is not impacted.

The malfunction of safety related equipment, assumed to be operable in the accident analyses, would not be caused as a result of the proposed technical specification change. No new failure mode has been created and no new equipment performance burdens are imposed.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not involve a significant reduction in a margin of safety. There will be no change to the departure from nucleate boiling ratio (DNBR) correlation limit, the design DNBR limits, or the safety analysis DNBR limits.

The basis for the accumulator LCO, as discussed in Bases Section 3.5.1, is to ensure that a sufficient volume of borated water will be immediately forced into the core through each of the cold legs in the event the RCS pressure falls below the pressure of the accumulators, thereby providing the initial cooling mechanism during large RCS pipe ruptures. As described in Section 9.2 of the WCAP–15049 evaluation, the proposed change will allow plant operation in a configuration outside the design basis for up to 24 hours, instead of 1 hour, before being required to begin shutdown. The impact of this on plant risk was evaluated and found to be very small. That is,

increasing the time the accumulators will be unavailable to respond to a large LOCA event, assuming accumulators are needed to mitigate the design basis event, has a very small impact on plant risk. Since the frequency of a design basis large LOCA (a large LOCA with loss of offsite power) would be significantly lower than the large LOCA frequency of the WCAP–15049 evaluation, the impact of increasing the accumulator CT from 1 hour to 24 hours on plant risk due to a design basis large LOCA would be significantly less than the plant risk increase presented in the WCAP–15049 evaluation.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Dated at Rockville, Maryland, this 9th day of July, 2002.

For the Nuclear Regulatory Commission.

Robert L. Dennig,

Chief, Technical Specifications Section, Operating Reactor Improvements Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–17649 Filed 7–12–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Control Room Envelope Habitability

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of public comment period.

SUMMARY: On May 9, 2002 (67 FR 31385), the U.S. Nuclear Regulatory Commission (NRC) published for public comment a proposed generic letter concerning control room envelope habitability determination. The 90-day public comment period was to have expired on August 7, 2002. The NRC received a request to extend the comment period by an additional 60 days. After consideration of the request, the NRC has decided to extend the public comment period for an additional 60 days.

DATES: The public comment period has been extended and now expires on September 6, 2002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules and Directives Branch, Division of Administrative Services, U.S. Nuclear Regulatory Commission, Mail Stop T6–D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m., Federal workdays.

Copies of written comments received and documents related to this action may be examined at the NRC Public Document Room, located at One White Flint North, Public File Area O1–F21, 11555 Rockville Pike, Rockville, Maryland. Documents are also available electronically at NRC's Public Electronic Reading Room on the Internet at <*http://www.nrc.gov/reading-rm.html*>. From this site, the public can gain entry into NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS Accession No. for the document containing the proposed generic letter is ML021230323. You may send comments electronically from this site by clicking on comment form. For more information, contact the NRC's Public Document Room reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to <*pdr@nrc.gov*>.

FOR FURTHER INFORMATION CONTACT: W. Mark Blumberg, 301–415–1083, or by e-mail to <*wmb1@nrc.gov*>.

Dated at Rockville, Maryland, this 8th day of July 2002.

For the Nuclear Regulatory Commission.

William D. Beckner,

Program Director, Operating Reactor Improvements Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–17647 Filed 7–12–02; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; Public Hearing

July 18, 2002.

TIME AND DATE: 2 P.M., Thursday, July 18, 2002.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: OPIC's Sunshine Act notice of its public hearing was published in the **Federal Register** (Volume 67, Number 128, Page 44648) on July 3, 2002. OPIC will not be holding a Board of Directors meeting in July. Therefore, OPIC's public hearing in conjunction with OPIC's Board of Directors meeting scheduled for 2 PM on July 18, 2002 has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov.*

Dated: July 11, 2002.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 02–17807 Filed 7–11–02; 12:00 pm]

BILLING CODE 3210–01–M

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in July 2002. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in August 2002. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the third quarter (July through September) of 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation,

1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. The required interest rate is the ''applicable percentage'' (currently 100 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). (Although the Treasury Department has ceased issuing 30-year securities, the Internal Revenue Service announces a surrogate yield figure each month—based on the 30-year Treasury bond maturing in February 2031—which the PBGC uses to determine the required interest rate.) The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in July 2002 is 5.52 percent.

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between August 2001 and July 2002.

For premium payment years beginning in:	The required interest rate is:
August 2001	4.77
September 2001	4.66
October 2001	4.66
November 2001	4.52
December 2001	4.35
January 2002	5.48
February 2002	5.45
March 2002	5.40
April 2002	5.71
May 2002	5.68
June 2002	5.65
July 2002	5.52

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the third quarter (July through September) of 2002, as announced by the IRS, is 6 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From	Through	Interest rate (percent)
7/1/96	3/31/98	9
4/1/98	12/31/98	8
1/1/99	3/31/99	7
4/1/99	3/31/00	8
4/1/00	3/31/01	9
4/1/01	6/30/01	8
7/1/01	12/31/01	7
1/1/02	9/30/02	6

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the third quarter (July through September) of 2002 (*i.e.,* the rate reported for June 17, 2002) is 4.75 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Interest rate (percent)
4/1/96	6/30/97	8.25
7/1/97	12/31/98	8.50
1/1/99	9/30/99	7.75
10/1/99	12/31/99	8.25
1/1/00	3/31/00	8.50
4/1/00	6/30/00	8.75
7/1/00	3/31/01	9.50
4/1/01	6/30/01	8.50
7/1/01	9/30/01	7.00
10/1/01	12/31/01	6.50
1/1/02	9/30/02	4.75

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 2002 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of July 2002.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 02–17639 Filed 7–12–02; 8:45 am]

BILLING CODE 7708–01–P

POSTAL RATE COMMISSION

Sunshine Act Meeting

AGENCY: Postal Rate Commission.

TIME AND DATE: July 18, 2002 at 10 a.m.

PLACE: Commision conference room, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

STATUS: Open.

MATTERS TO BE CONSIDERED: Item no. 1: annual budget submission for fiscal year 2003; item no. 2: selection of vice chairman.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street NW., Washington, DC 20268– 20268–789–6820

Dated: July 11, 2002.

Steven W. Williams,

Secretary.

[FR Doc. 02–17849 Filed 7–11–02; 1:23 pm]

BILLING CODE 7710FWM

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27549]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 8, 2002.

Notice is hereby given that the following filings have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications/declarations for complete statements of the proposed transactions summarized below. The applications/declarations are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications/declarations should submit their views in writing by August 2, 2002, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant/declarant at the address specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 2, 2002, the applications/declarations, as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70–9353)

American Electric Power Company, Inc. (''AEP''), a registered public utility holding company, AEP Energy Services, Inc. (''AEPES'') and AEP Resources, Inc. (''Resources''), both wholly owned nonutility subsidiaries of AEP (collectively, ''Applicants''), all located at 1 Riverside Plaza, Columbus, Ohio 43215, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10 and 12 of the Act and rules 45, 46, and 54 under the Act to their previously filed application-declaration (''Application'').

By orders dated November 2, 1998 (HCAR No. 26933), December 22, 1999 (HCAR No. 27120), and August 13, 2001 (HCAR No. 27432) in this file (collectively, the ''Previous Orders'') the Commission authorized, among other things, Applicants to acquire from time to time through December 31, 2003 (''Previous Authorization Period''), nonutility energy-related assets or the equity securities of companies substantially all of whose physical properties consist of nonutility energy-related assets (collectively, ''Energy Related Assets'')[1] in the United States that would be incidental to, and would assist Applicants and their subsidiaries in connection with, energy marketing, brokering, and trading ventures.[2] Applicants were authorized to invest up to $2.0 billion (''Previous Investment Limitation'') during the Previous Authorization Period in Energy Related Assets.

Under the Previous Orders, AEP, Resources, AEPES and any existing or new, direct or indirect subsidiaries of either company were authorized to issue securities to finance the purchase of Energy Related Assets in an aggregate amount not to exceed the Previous Investment Limitation, the securities to consist of any combination of (i) shares of common stock of AEP; (ii) borrowings by AEP from banks or other financial institutions under credit lines or otherwise; (iii) guarantees of indebtedness issued by Resources, AEPES or any existing or new, direct or indirect, subsidiary of Resources or AEPES; or (iv) guarantees of securities issued by any special purpose finance subsidiary (''SPF'').

In turn, under the Previous Orders, Resources, AEPES, any existing or new, direct or indirect subsidiary of Resources, AEPES, and any SPF were authorized to issue debt, equity or preferred securities of any type, including guarantees as appropriate, from time to time during the Previous Authorization Period to finance acquisitions of Energy Related Assets.

Under this authority, AEP has, among other things, acquired midstream gas assets, including intrastate pipeline systems in Louisiana and Texas, natural gas processing plants, and storage facilities.

Applicants now seek authorization to acquire, in one or more transactions from time to time through June 30, 2004 (''New Authorization Period''), Energy Related Assets in Canada as well as the United States. These Energy Related Assets would be incidental to and would assist Applicants and their subsidiaries in connection with the Commodities Business in the United States and Canada. Applicants further seek authorization to increase the Investment Limitation by an additional $2.0 billion, which, together with existing authority, will increase the aggregate amount that could be invested in Energy Related Assets to $4.0 billion (''New Investment Limitation'').

Consistent with the Previous Orders, Applicants propose to acquire Energy Related Assets for cash or in exchange for common stock of AEP or other securities of Applicants or may include the assumption of debt of the seller, or any combination of the foregoing. Consistent with the Previous Orders, under no circumstances will the Applicants acquire, directly or indirectly, any assets or properties the ownership or operation of which would cause the companies to be considered an ''electric utility company'' or ''gas utility company'' as defined in section 2 of the Act.

Accordingly, to provide the maximum flexibility, AEP requests authorization to issue securities in the manner described in an aggregate amount, when added to all other outstanding securities issued to purchase Energy Related Assets in File No. 70–9353, would not exceed the New Investment Limitation. Applicants were authorized in the Previous Orders to organize direct or indirect SPFs to finance these acquisitions, which authority Applicants request continue throughout the New Authorization Period.

Applicants also request that, to the extent not exempt under rule 52 and/or rule 45(b), the financing authority continue through the Authorization Period in an amount, when added to all other outstanding securities issued to purchase Energy Related Assets in File No. 70–9353, would not exceed the New Investment Limitation.

In addition, AEP, Resources, AEPES, and any new, direct or indirect subsidiaries of Resources or AEPES request authorization to guarantee financial commitments, other than indebtedness, of any entity owning or operating Energy Related Assets in an aggregate amount not to exceed the New Investment Limitation.[3]

In addition, AEP requests authorization to allow companies formed to own Energy Related Assets

[1] Energy Related Assets include natural gas production, gathering, processing, storage and transportation facilities and equipment, liquid oil reserves and storgae facilities, and associated facilities.

[2] By orders dated September 13, 1996 (HCAR No. 26572), September 27, 1996 (HCAR No. 26583), May 2, 1997 (HCAR No. 26713), November 30, 1998 (HCAR No. 26947), April 7, 1999 (HCAR No. 26998), and August 19, 1999 (HCAR No. 27062) in File No. 70–8779, AEP was authorized to form direct or indirect nonutility subsidiaries to broker and market electric power, natural and manufactured gas, emissions allowances, coal, oil, refined petroleum products, and natural gas liquids in the United States and Canada (''Commodities Business'').

[3] The aggregate principal amount of these guarantees, exclusive of any guarantees or other forms of credit support that are exempt under rules 45(b) and 52(b), will not exceed the New Investment limitation.

(''Energy Related Asset Subsidiaries'') to declare and pay dividends to their parent companies from time to time out of capital and unearned surplus to the extent permitted by applicable law.

Allegheny Energy, Inc. (70–8893)

Allegheny Energy, Inc. (''Allegheny''), 10435 Downsville Pike, Hagerstown, Maryland 21740, a registered public utility holding company; its direct wholly owned public utility company subsidiaries Monongahela Power Company (''Monongahela Power''), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, and Allegheny Energy Supply Company, LLC (''Supply''), 10435 Downsville Pike, Hagerstown, Maryland 21740; and its indirect wholly owned public utility company subsidiary Allegheny Generating Company (''AGC''), 10435 Downsville Pike, Hagerstown, Maryland 21740, have filed a post-effective amendment to a declaration (''Declaration'') under section 12(c) of the Act and rules 46 and 54 under the Act.

AGC is a single asset company that owns a 40% undivided interest in a 2100-megawatt hydroelectric station located in Bath County, Virginia.[4] By order dated September 19, 1996 (HCAR No. 26579), the Commission authorized AGC to pay dividends from capital surplus through December 31, 2001. AGC continues to have declining capital needs and its retained earnings are insufficient to pay common stock dividends. As a result, AGC requests authorization to continue to pay dividends from capital surplus through December 31, 2005.

AGC's current earnings are determined in accordance with a Federal Energy Regulatory Commission (''FERC'') approved cost of service formula. Under that formula, available cash flow from operations is applied first to the minimal capital expenditure requirements for AGC's existing single asset, and next to the pay down of debt and to the payment of dividends in a proportion that maintains debt at about 60% and equity at about 40% of total capitalization.

AGC's current and proposed dividend payment policy remains unchanged since AGC's operations commenced in 1985. Prior to 1985, AGC paid no dividends but accrued retained earnings as a result of recording allowance for funds used during construction in accordance with the FERC uniform system of accounts. From 1985 to 1996, AGC paid dividends from current earnings and accrued retained earnings.

[4] AGC is jointly owned by Monongahela Power (27%) and Supply (73%).

Dominion Resources, Inc. (70–10037)

Dominion Resources, Inc. (''Dominion''), a registered holding company, 120 Tredegar Street, Richmond, Virginia 23219, and Dominion Oklahoma Texas Exploration & Production, Inc. (''DOTEPI''), a nonutility subsidiary company of Dominion, Four Greenspoint Plaza, 16945 Northchase Drive, Suite 1750, Houston, Texas 77060, have filed a declaration under section 12(c) and rules 46, 53, and 54 under the Act.

On November 2, 2001, Consolidated Natural Gas Company (''CNG''), a wholly owned registered holding company subsidiary of Dominion, acquired in a merger transaction Louis Dreyfus Natural Gas Corp. (''LD''), a company engaged in natural gas exploration and production in the United States. Under the merger agreement, LD was merged with and into DOTEPI, a newly formed subsidiary of Dominion.[5] All of DOTEPI's shares were contributed by Dominion to CNG immediately following the merger. The acquisition was financed in part through the issuance of long-term debt and trust-preferred securities by CNG.

The acquisition was accounted for by the purchase method of accounting. As a result, the retained earnings of LD were recharacterized as paid-in-capital on DOTEPI's books. DOTEPI now requests authorization to pay dividends to CNG out of its capital surplus to compensate for the accounting treatment. The amount of dividends will be limited to the amount of LD's retained earnings immediately prior to the merger.[6] Dominion states that the payment of dividends to CNG will allow CNG to service the acquisition debt incurred in connection with the merger.

Dominion also requests authorization for any nonutility company in the Dominion system to declare and pay dividends out of capital surplus to its immediate parent companies, subject to applicable corporate law and any applicable financing agreement that restricts distributions to shareholders. Dominion states that the payment of dividends will benefit the system by enabling the parent companies to reduce or refinance borrowings and to fund operations of the system companies.

[5] The common stock of DOTEPI was acquired by CNG under rule 58.

[6] The amount of LD's retained earnings as of October 31, 2001 was $302.7 million.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17612 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25650; 812–12789]

Banknorth Funds, et al.; Notice of Application

July 8, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

Summary of Application: Applicants request an order to permit a certain series of a registered open-end management investment company to acquire all of the assets and liabilities of certain other series of the same registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: Banknorth Funds, Banknorth, N.A., and Banknorth Investment Advisors (''BIA'').

Filing Dates: The application was filed on February 27, 2002 and amended on July 1, 2002.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 2, 2002 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Banknorth Investment Management Group, 111 Main Street, Burlington, VT 05402–0409.

FOR FURTHER INFORMATION CONTACT: Julia Kim Gilmer, Senior Counsel, at (202)

942–0528, or Todd F. Kuehl, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Banknorth Funds is a Delaware business trust registered under the Act as an open-end management investment company and currently consists of six series. Two of the series, the Banknorth Large Cap Growth Fund and the Banknorth Value Fund are the ''Acquired Funds,'' and a third series, the Banknorth Large Cap Core Fund, is the ''Acquiring Fund'' (each series a ''Fund'' and collectively, the ''Funds'').

2. BIA, a division of Banknorth Investment Management Group, which is a division of Banknorth N.A., is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as the investment adviser to each of the Funds. As of May 20, 2002, Banknorth N.A., in a fiduciary capacity, owned more than 5% (and more than 25%) of the outstanding voting securities of each of the Funds.

3. On November 15, 2001, the Funds' board of trustees (''Board''), including all of the trustees who are not ''interested persons'' of the Funds as defined in section 2(a)(19) of the Act (''Disinterested Trustees''), unanimously approved the proposed reorganizations and agreements and plans of reorganization of the respective Funds (''Reorganization Agreements''). Under the Reorganization Agreements, the Acquiring Fund will acquire all of the assets, subject to the liabilities, of each of the Acquired Funds in exchange for shares of the Acquiring Fund (the ''Reorganizations''). Shareholders of each Acquired Fund will receive Acquiring Fund shares having an aggregate net asset value equal to the aggregate net asset value of each Acquired Fund determined as of the close of the New York Stock Exchange (normally 4:00 p.m. Eastern time) on the day of closing of each Reorganization. The net asset value of the Acquiring Fund's shares and the Acquired Funds' net asset values will be determined according to each Fund's then-current prospectus and statement of additional information. As soon as reasonably practical after the closing of each Reorganization, the Acquired Funds will distribute the shares of the Acquiring Fund pro rata to their shareholders in complete liquidation and dissolution of the Acquired Funds.

4. Applicants state that the Board has determined that the investment objectives of each Acquired Fund and the Acquiring Fund are identical. In seeking its objective, the Acquiring Fund employs a blended style of investing, using both growth-based and value-based strategies. One of the Acquired Funds seeks to achieve its investment objective by investing primarily in the growth-oriented stocks of large-capitalization companies, and the other Acquired Fund invests primarily in value-oriented stocks of large-capitalization companies. Applicants state that the rights and obligations of the Acquired Funds' shareholders are identical to those of the Acquiring Fund's shareholders. Shares of the Acquiring Fund and the Acquired Funds are subject to a maximum front-end sales charge of 5.50%, a rule 12b–1 fee of 0.25% and shareholder service fees of 0.25%. No sales charge or exchange fee will be imposed in connection with the Reorganizations. Banknorth N.A. will bear the costs of each Reorganization.

5. The Board, including all of the Disinterested Trustees, unanimously determined that each Reorganization was in the best interest of each Fund and its shareholders, and that the interests of each Fund's existing shareholders will not be diluted as a result of the Reorganizations. In approving the Reorganizations, the Board considered various factors, including, among other things: (a) The terms and conditions of the Reorganizations, including any changes in services to be provided to shareholders of each Fund; (b) the respective expense ratios of the Funds; (c) the investment objectives, management policies and investment restrictions of the Funds; (d) the potential economies of scale that are likely to result from the larger asset base of the combined Funds; (e) the anticipated tax-free nature of the Reorganizations; (f) the fact that the costs of each Reorganization will be borne by Banknorth, N.A.; and (g) the relative performance of each Fund.

6. The Reorganizations are subject to a number of conditions precedent, including that: (a) The shareholders of each Acquired Fund shall have approved their respective Reorganization; (b) applicants will have received from the Commission an exemption from section 17(a) of the Act for the Reorganizations; (c) a registration statement on Form N–14 under the Act and the Securities Act of 1933 relating to the Acquiring Fund will have become effective; (d) the receipt of an opinion of counsel that the Reorganizations will be tax-free for the Funds and their shareholders; and (e) each Acquired Fund shall have declared and paid dividend(s) which shall have the effect of distributing to its shareholders all net investment company taxable income for all taxable periods, if any, and all of its net realized capital gains. The Reorganization Agreements may be terminated by the Board or may be abandoned at any time prior to the closing date of the Reorganizations. Applicants agree not to make any material changes to the Reorganization Agreements without prior Commission approval.

7. The registration statement on Form N–14 for the Reorganization of each Acquired Fund containing a combined prospectus/proxy statement was filed with the Commission on June 4, 2002. It is expected that the combined prospectus/proxy statement will be mailed to shareholders of each Acquired Fund in July 2002. Shareholder meetings for the Acquired Funds' shareholders to consider the Reorganizations have been scheduled for August 9, 2002.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of that person, acting as principal, from selling to or purchasing from the registered investment company any security or other property. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person (''Second-Tier Affiliates''), solely by reason of having a common investment adviser, common directors, and/or common officers, provided, that certain conditions are satisfied. Applicants believe that rule 17a–8 may not be available to exempt the Reorganizations

because the Funds may be deemed to be affiliated persons by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that Banknorth N.A., an affiliated person of BIA, owns as a fiduciary and has the power to vote more than 5% (and more than 25%) of the outstanding voting securities of each of the Funds. Therefore, the Acquiring Fund may be deemed a Second-Tier Affiliate of each Acquired Fund.

3. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate each Reorganization. Applicants submit that the Reorganizations satisfy the conditions of section 17(b) of the Act. Applicants also state that the Board, including all of the Disinterested Trustees, has found the participation of the Funds in the Reorganizations to be in the best interests of each Fund and its shareholders and that such participation will not dilute the interests of existing shareholders of each Fund. Applicants also state that the Reorganizations will be effected on the basis of relative net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17611 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25651; 812–12811]

Principal Bond Fund, Inc., et al.; Notice of Application

July 8, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a registered open-end management investment company to acquire all of the assets and assume all of the liabilities of another registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: Principal Bond Fund, Inc. (the ''Bond Fund''), Principal High Yield Fund, Inc. (the ''High Yield Fund''), and Principal Management Corporation (the ''Adviser'').

FILING DATES: The application was filed on April 18, 2002. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 30, 2002, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants, c/o The Principal Financial Group, 711 High Street, Des Moines, Iowa 50392–0200.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 942–0634, or Todd Kuehl, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations:

1. The Bond Fund (the ''Acquiring Fund'') and the High Yield Fund (the ''Acquired Fund,'' together with the Acquiring Fund, the ''Funds'') are Maryland corporations and are registered under the Act as open-end management investment companies. The Adviser serves as the investment adviser to each Fund and is registered under the Investment Advisers Act of 1940. The Adviser is an indirect wholly-owned subsidiary of Principal Financial Group, Inc. (''Principal Financial''). Principal Life Insurance Company (''Principal Life'') is also an indirect wholly-owned subsidiary of Principal Financial. Principal Life, for its own account, owns more than 5% of the outstanding voting securities of the Acquired Fund.

2. On March 11, 2002, the board of directors of each Fund (each a ''Board,'' together, the ''Boards''), including in each case all of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), approved an Agreement and Plan of Reorganization (the ''Plan''). Under the Plan, the Acquiring Fund will acquire all of the assets and assume all of the liabilities of the Acquired Fund in exchange for shares of the designated class of the Acquiring Fund (the ''Reorganization''). The closing of the Reorganization (''Closing'') is expected to occur on July 31, 2002, (the ''Closing Date''). The shares of the Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the Acquired Fund's shares determined as of the close of regular trading on the New York Stock Exchange on the Closing Date. The value of assets of the Funds will be determined in accordance with the Acquiring Fund's then current prospectus and statement of additional information (whose valuation procedures are identical to the Acquired Fund's). As soon as practicable after the Closing, the Acquired Fund will distribute pro rata to its shareholders of record, determined as of the close of business on the Closing Date, its shares of the Acquiring Fund received at the Closing and will be liquidated.

3. Each Fund offers Class A and Class B shares. Class A shares are subject to a front-end sales charge, rule 12b–1 distribution fees, service fees, and in some cases, a contingent deferred sales charge (''CDSC'') and Class B shares are subject to rule 12b–1 distribution fees, service fees and a CDSC. Applicants state that the rights and obligations of each class of the Acquiring Fund are identical to those of the corresponding share class of the Acquired Fund. Shareholders of each class of the Acquired Fund will receive shares of the corresponding class of the Acquiring Fund. No sales charges or other fees will be imposed in connection with the Reorganization. For purposes of calculating any CDSC on shares of the Acquiring Fund, shareholders of the Acquired Fund will be deemed to have held the shares of the Acquiring Fund

since the date the shareholders initially purchased the shares of the Acquired Fund.

4. The Boards, including all of the Independent Directors, determined that the Reorganization is in the best interests of each Fund and its shareholders and that the interests of shareholders would not be diluted as a result of the Reorganization. In determining whether to approve the Reorganization, the Boards considered various factors, including: (a) The terms and conditions of the Reorganization; (b) the comparative investment performance of the Funds; (c) the possible advantages to the Acquired Fund's shareholders of investing in a larger asset pool with a higher quality of securities; (d) the federal income tax consequences to the Acquired Fund's shareholders; (e) the possible benefits of a larger asset base to portfolio management of the Acquiring Fund; (f) the compatibility of investment objectives and policies of the Funds and any changes to the objectives and policies of the Acquired Fund that will result from the Reorganization; and (g) the tax-free nature of the Reorganization.

5. Applicants also state that the Boards determined that the investment objectives, restrictions and policies of the Funds, though not identical, are similar and the range of credit qualities in which the Acquiring Fund invests should offer the Acquired Fund's shareholders some degree of continuity in investment exposure to high yield bonds as well as potential for reduced risk. Although there is overlap in the range of securities in which the Funds may invest, Applicants state, however, that the Acquired Fund's assets that are not eligible investment for the Acquiring Fund will be liquidated prior to the Closing and the Acquired Fund and its shareholders will be responsible for any brokerage expenses and tax consequences resulting from this liquidation. The Adviser will bear all of the other costs associated with the Reorganization.

6. The Reorganization is subject to a number of conditions precedent, including that: (a) The Acquired Fund's shareholders will have approved the Reorganization; (b) the Funds will have received opinions of counsel that the Reorganization will be tax-free for the Funds and their shareholders; (c) applicants will have received from the Commission the exemptive relief requested by the application; (d) an N–14 registration statement relating to the Reorganization will have become effective with the Commission; and (e) the Acquired Fund will declare to shareholders of record on or prior to the Closing Date a dividend, which together with all previous dividends will have the effect of distributing to shareholders all of its income and all net realized capital gains, if any, as of the Closing. The Plan may be terminated by mutual consent of each Board at any time prior to the Closing Date. No material changes will be made to the Plan without prior approval of the Commission.

7. A registration statement on Form N–14 relating to the Reorganization, containing a proxy statement/prospectus, was filed with the Commission and declared effective and was mailed to the Acquired Fund's shareholders on May 20, 2002. A special meeting of the Acquired Fund's shareholders was held on June 26, 2002, and the Reorganization was approved.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of that person, acting as principal, from selling to or purchasing from the registered investment company any security or other property. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided, that certain conditions are satisfied.

3. Applicants state that they may not rely on rule 17a-8 because the Funds may be deemed to be affiliated persons for reasons other than those set forth in the rule. Applicants state that Principal Financial and the Adviser may be deemed to control the Funds. Also, Principal Life owns more than 5% of the total outstanding voting securities of the Acquired Fund. The Acquired Fund, pursuant to section 2(a)(3)(B) of the Act, is an affiliated person of Principal Life and Principal Financial because Principal Life has the power to vote more than 5% of the outstanding voting securities of the Acquired Fund. The Acquired Fund therefore may be an affiliated person of an affiliated person of the Acquiring Fund.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to effect the Reorganization. Applicants submit that the Reorganization satisfies the conditions of section 17(b) of the Act. Applicants also state that the Boards, including all of the Independent Directors, have determined that the participation of the Funds in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of existing shareholders of each Fund. Applicants also state that the Reorganization will be effected on the basis of relative net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17678 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46166; File No. SR–DTC–2001–14]

Self-Regulatory Organizations; the Depository Trust Company; Order Approving a Proposed Rule Change Relating to the Closing of the Mortgage-Backed Securities Division of the Depository Trust Company

July 3, 2002.

On July 24, 2001, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''). Notice of the proposal was published in the **Federal Register** on

December 17, 2001.[1] Three comment letters were received.[2] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change enables DTC to close its Mortgage Backed Securities Division (''MBS Division''). Among other things, the MBS Division provided the facilities for the issuance, immobilization, clearance, and settlement of mortgage-backed securities guaranteed by the Government National Mortgage Association (''GNMA''). However, in May 2000 GNMA publicly announced its decision to utilize the Fedwire system[3] of the Board of Governors of the Federal Reserve System (''Fed'') for the clearance and settlement of these mortgage-backed securities.[4] On March 23, 2002, the conversion of GNMA securities from the MBS Division to the Federal Reserve Banks was completed.

Prior to GNMA's announcement of its decision to move its securities from the MBS Division to the Federal Reserve Banks, the Ginnie Mae Settlement Task Force was organized by The Bond Market Association (''TBMA'') to assess the feasibility of the transfer. That task force consisted of representatives from broker-dealers, custodial banks, clearing banks, GNMA, the Federal Reserve Banks, the Mortgage Bankers Association, DTC, and TBMA. Followiing GNMA's announcement, the task force formed the Ginnie Mae Conversion Subcommittee to develop a conversion plan setting forth conversion details and an implementation schedule. The conversion subcommittee was comprised of representatives from broker-dealers, GNMA, the Federal Reserve Banks, DTC, clearing banks, and custodial banks. In February 2001, the subcommittee issued its Conversion Plan.[5]

The conversion took place in phases over a series of weekends beginning October 6, 2001, and ending March 23, 2002. During the conversion, different classes of GNMA securities were moved electronically from the MBS Division to the Federal Reserve Banks in accordance with delivery instructions provided to the MBS Division by the MBS Division's participants. Other securities issued through and settled at the MBS Division, namely securities guaranteed by the Department of Veterans Affairs and a limited number of FNMA and FHLMC securities that are collateralized by GNMA securities, were also moved to Federal Reserve Banks during the conversion.

Shortly after the completion of the payment of principal and interest with respect to securities last converted, DTC closed the transaction processing system of the MBS Division and returned the MBS Division participant fund deposits to the MBS Division's participants. DTC will now delete from its rules the rules that applied to the MBS Division.

Although DTC will close its MBS Division, GNMA securities remain eligible for processing at DTC and can be processed at DTC in the same manner as are other Fedwire-eligible securities. Fedwire-eligible securities processed at DTC are deposited and withdrawn free of payment to and from DTC's Fedwire account. Once deposited into DTC's Fedwire account, Fedwire-eligible securities are processed at DTC among DTC participants subject to DTC's rules and procedures applicable to other DTC-eligible fixed income securities.

In connection with the conversion of GNMA securities to the Federal Reserve Banks, DTC considered expanding its processing to permit GNMA securities to be delivered against payment into and from DTC's Fedwire account. DTC solicited comments from its participants, but fewer than a dozen participants expressed an interest in using such a service. In light of the development costs involved and the limited interest expressed by its participants, DTC's Board of Directors concluded that DTC's resources would be better applied to projects that serve a wider participant base.

II. Comments

The Commission received three comment letters. One commenter, Daniel L. Goelzer on behalf of State Street Bank and Trust Company, stated that the transfer of settlement responsibility for GNMA mortgage-backed securities from DTC to the Fedwire system would foster unfair discrimination among participants because securities settled in the Fedwire system are subject to a practice known as ''dealer time''[6] that does not exist in DTC's MBS Division's settlement environment.[7] The commenter requested that the Commission institute proceedings under Section 19(b)(2)(B) to determine if DTC's proposed rule change should be disapproved.

Another comment letter submitted by TBMA in response to the State Street letter strongly supported the transfer of GNMA settlement to the Federal Reserve Banks and the subsequent closure of DTC's MBS Division. TBMA argued, among other things, that the proposed rule filing ''will promote the effective clearance and settlement of those securities on a basis comparable to mortgage-backed securities of other U.S. government-sponsored enterprises.''[8] TBMA also stated that the dealer time guidelines are recommended, voluntary industry practices and are not relevant to the merits of the proposed rule change.

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act's requirements and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F) of the Act.[9] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. Given the decision by GNMA to move its securities to the Federal Reserve Banks and use Fedwire for clearing its mortgage-backed securities, there is no reason for DTC to

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[1] Securities Exchange Act Release No. 45146 (Dec. 10, 2001), 66 FR 65014.

[2] Letters from Daniel L. Goelzer, Baker & McKenzie on behalf of State Street Bank and Trust Company (Dec. 14, 2001); Paul Saltzman, Executive Vice President and General Counsel, The Bond Market Association (Jan. 7, 2001); and Daniel L. Goelzer, Baker & McKenzie on behalf of State Street (Mar. 13, 2002).

[3] The Fedwire system is currently used for, among other things, the issuance and settlement of U.S. Treasury securities and mortgage-backed securities guaranteed by the Federal Home Loan Mortgage Corporation (''FHLMC'') and the Federal National Mortgage Association (''FNMA'').

[4] *See* 66 FR 44258 (Aug. 22, 2001) (issuance of final rule by GNMA governing payments of book-entry securities).

[5] The Conversion Plan is available online at <*www.frbservices.org*> and at <*www.bondmarkets.com/regulatory*>. A copy of the Conversion Plan is also attached as Exhibit 2 of DTC's filing [DTC Important Notice No. 1483 (Feb. 15, 2001)], which is available through the Commission's Public Reference Section or through DTC.

[6] ''Dealer time is a 15-minute window at the end of the Fed's book-entry security processing day during which dealers may make deliveries of securities to customers, but customers may not make deliveries to dealers. As a result of dealer time, institutional clients are unable to make deliveries during the last 15 minutes of the delivery day and are therefore forced to hold positions overnight and to incur significant financing costs. In contrast, dealer participants in the Fedwire system can effect delivery to non-dealers during this 15 minute period, while simultaneously enjoying protection from having to accept delivery. Just as dealer time imposes overnight financing costs on non-dealers, it afford dealers a privileged opportunity to avoid these costs by protecting dealers from receiving positions for which payment would have to be made.'' State Street letter (Dec. 14, 2000) at page 2.

[7] [7]: The purpose of the second State Street letter was to submit a letter dated March 1, 2002, from the New York Clearing House Association, the Boston Clearing House Association, and the Bank Depository Users Group to the TBMA, requesting that TBMA rescind its dealer-to-customer good delivery (*i.e.* dealer time) guidelines.

[8] TBMA letter at page 1.

[9] 15 U.S.C. 78q–1(b)(3)(F).

keep its MBS Division open. Accordingly, the proposed rule change should enable DTC to eliminate unproductive expenditures and use its resources in a more efficient manner to promote the prompt and accurate clearance and settlement of securities transactions.

The concern raised in the State Street letter regarding dealer time concerns an industry practice relating to the settlement of Fedwire-eligible securities and is not the subject of this proposed rule change.[10] Furthermore, the Fed addressed this issue in a 1995 release adopting new closing times for the Fedwire securities transfer system.[11] Responding to State Street's suggestion that the Fed also review the need for a dealer turnaround deadline, the Fed stated that ''[d]ealer-turnaround time was established by the PSA [the previous name of the BMA] as an industry guideline to promote the smooth functioning of the government securities market'' and that ''[t]he dealer-turnaround deadline had been reflected in the Federal Reserve Banks'' operating circulars; however, the Reserve Banks do not police participant activity with respect to this time.'' The Fed concluded that their action (*i.e.,* adopting new closing times) did ''not preclude the continuation of an industry standard for a dealer-turnaround time if the industry believes it is needed.'' Therefore, because GNMA securities will now be cleared and settled through the Fedwire system, commenters should direct their concerns regarding Fedwire rules to the Fed.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2001–14) be, and hereby is, approved.

[10] The first State Street letter acknowledged this by recognizing ''that disapproval of the DTC rule proposal * * * might not necessarily prevent the transfer of GNMA securities to the Fedwire system or compel the abolition of dealer time.'' Goelzer letter (Dec. 14, 2000) at page 7, fn 10.

[11] 60 FR 42410 (Aug. 15, 1995).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17679 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46165; File No. SR–NASD–2002–87]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Establishing Effective Dates for NASD Rule 2711, Research Analysts and Research Reports

July 3, 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 1, 2002, the National Association of Securities Dealers, Inc. (''NASD'') submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. On July 3, 2002, the NASD filed Amendment No. 1 to the proposed rules change.[3] The NASD has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule series under paragraph (f)(1) of Rule 19b–4 under the Act,[4] which renders the proposal effective upon filing Amendment No. 1 with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) of the Act,[5] the NASD is filing with the Commission a proposed rule change to establish November 6, 2002 as the effective date for certain provisions of NASD Rule 2711. First, the proposed rule change would establish November 6, 2002 as the effective date for Rules 2711(b) and (c) for members that over the previous three years, on average, have participated in 10 or fewer investment banking transactions on underwritings as manager or co-manager and generated $5 million or less in gross investment banking revenues from those transactions. Rules 2711(b) and (c), when effective, will prohibit a research analyst from being subject to the supervision or control of any employee of a member's investment banking department, and will further require legal or compliance personnel to intermediate certain communications between the research department and either the investment banking department or the company that is the subject of a research report or recommendation (''subject company'').

Second, the proposed rule change would also establish November 6, 2002 as the effective date for Rule 2711(h)(2) as applied to the receipt of compensation by a member's foreign affiliates from a subject company. Rule 2711(h)(2), when effective, will require a member to disclose in research reports all compensation received by it or its affiliates from a subject company for investment banking services in the past 12 months, or expected to be received in the next 3 months.[6]

Third, the proposed rule change would establish November 6, 2002, subject to certain conditions, as the effective date for Rule 2711(g)(3) for those research analysts who must divest holdings to comply with their firm's more restrictive policy that prohibits analyst ownership of securities they cover. Rule 2711(g)(3), when effective, will prohibit a ''research analyst account'' from purchasing or selling a security or option or derivative of that security, in a manner contrary to the analyst's most recent published recommendation reflected in the member's research report.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, NASD established a further condition for delaying the implementation of Rules 2711(b) and (c) until November 6, 2002 for members that over the previous three years, on average, have participated in 10 or fewer investment banking transactions on underwritings as manager or co-manager and generated $5 million or less in gross investment banking revenues from those transactions. Amendment No. 1 requires that those firms that meet the eligibility requirements outlined above must maintain records of communications that would otherwise be subject to the gatekeeper provisions of Rules 2711(b) and (c). In Amendment No. 1, NASD also corrected several technical errors that appeared in its original filing. *See* letter from Marc Menchel, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated July 2, 2002 (''Amendment No. 1'').

[4] 17 CFR 240.19b–4(f)(1).

[5] 15 U.S.C. 78s(b)(1).

[6] *See* Amendment No. 1, *supra* note 3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its original rule filing with the Commission, the NASD 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 NASD 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 NASD is filing the proposed rule change to establish November 6, 2002 as the effective date for the following provisions of NASD Rule 2711: (a) Rules 2711(b) and (c) for members that over the previous three years, on average, have participated in 10 or fewer investment banking transactions on underwritings as manager or co-manager and generated $5 million or less in gross investment banking revenues from those transactions; (b) Rule 2711(h)(2) as applied to the receipt of compensation by a member's foreign affiliates from a subject company; and (c) Rule 2711(g)(3), subject to certain conditions, for those research analysts who must divest certain holdings to comply with their firm's more restrictive policy that prohibits analyst ownership of securities they cover.

On May 10, 2002, the Commission approved new NASD Rule 2711, which governs conflicts of interest when research analysts recommend equity securities in research reports and during public appearances.[7] The Commission approved a staggered implementation period for the rule. Most provisions of the rule become effective on July 9, 2002, including those that restrict supervision and control of research analysts by the investment banking department and those that require disclosure of investment banking compensation received from a subject company. The ''gatekeeper'' provisions, described below, become effective September 9, 2002, and Rule 2711(h)(1)(B)—a requirement to disclose firm ownership of subject company securities—becomes effective on November 6, 2002.

Small Firms and ''Gatekeeper'' Provisions

Rule 2711 contains provisions that generally restrict the relationship between the research and investment banking departments, including ''gatekeeper'' provisions that require a legal or compliance person to intermediate certain communications between the research and investment banking departments. Rule 2711(b)(1) prohibits a research analyst from being under the control or supervision of any employee of the investment banking department. Rule 2711(b)(2) prohibits employees in the investment banking department from reviewing or approving any research reports prior to publication. Rule 2711(b)(3) creates an exception to (b)(2) to allow investment banking personnel to review a research report prior to publication to verify the factual information contained therein and to screen for potential conflicts of interest. Any permissible written communications must be made through an authorized legal or compliance official or copied to such official. Oral communications must be made through, or in the presence of, an authorized legal or compliance official and must be documented.

Similarly, Rule 2711(c) restricts communications between a member and the subject company of a research report, except that a member may submit sections of the research report to the company to verify factual accuracy and may notify the subject company of a ratings change after the ''close of trading'' on the business day preceding the announcement of the ratings change. Submissions to the subject company may not include the research summary, the rating or the price target, and a complete draft of the report must be provided beforehand to legal or compliance personnel. Finally, any change to a rating or price target after review by the subject company must first receive written authorization from legal or compliance.

As the Commission noted in its May 10th order, several commenters argued that the gatekeeper provisions would impose significant costs, especially for smaller firms that would have to hire additional personnel. Commenters also noted that personnel often wear multiple hats in smaller firms, thereby causing a greater burden to comply with the restriction on supervision and control by investment banking personnel over research analysts. These comments raised the prospect that the rules might force some firms out of business and/or reduce the research coverage of smaller companies.

The NASD is sensitive to the burdens on small firms and, as the Commission's May 10th order noted, is reviewing the issue to explore possible exemptions or accommodations that can be made while preserving the purposes of the rule. To that end, the NASD is proposing to delay implementation of Rules 2711(b) and (c) until November 6, 2002 for members that over the previous three years, on average, have participated in 10 or fewer investment banking transactions on underwritings as manager or co-manager and generated $5 million or less in gross investment banking revenues from those transactions.

As a further condition for the delayed implementation date, those firms that meet the eligibility requirements outlined above would be required to maintain records of communications that would otherwise be subject to the gatekeeper provisions of Rules 2711(b) and (c). The NASD believes that for these members, provided they comply with the conditions described, the burdens of the specific provisions outweigh the benefits to the investing public. Moreover, relief from these provisions will preserve these firms' roles as sources for capital and research for smaller local and regional issuers.[8]

Receipt of Investment Banking Compensation by Foreign Affiliates

Rule 2711(h)(2)(A)(ii) requires a member to disclose in research reports if the member or its affiliates: (a) Managed or co-managed a public offering of the subject company's securities in the past 12 months; (b) received compensation for investment banking services from the subject company in the past 12 months; or (c) expects to receive or intends to seek compensation for investment banking services from the subject company in the next 3 months. The NASD understands that members are setting up systems that can readily track the information required by this provision of the rule. However, certain members, particularly those with global operations and several foreign affiliates, have informed the NASD that the scope of their operations make it impossible to have systems in place by July 9, 2002, to track all investment banking compensation received by their foreign affiliates. For example, one firm has informed the NASD that it generates over 300 global research products per day and that each of its foreign divisions are separately automated. According to

[7] *See* Securities Exchange Act Release No. 45908 (May 10, 2002), 67 FR 34968 (May 16, 2002) (''May 10th order'').

[8] *See* Amendment No. 1, *supra* note 3.

this firm, mapping revenues from one division to another would require manual matching of identification numbers. The firm has undertaken to do so with respect to its United States-based affiliates, but has told the NASD it requires more time to aggregate compensation from all of its foreign affiliates. The NASD further understands that other members with global operations have similar challenges.

The NASD recognizes that the tracking of investment banking compensation received from foreign affiliates requires significant resources and therefore believes it is appropriate to allow members additional time to set up systems to enable compliance with the rule. Accordingly, the NASD is proposing to delay the implementation date for Rule 2711(h)(2)(A)(ii) until November 6, 2002, only as it relates to investment banking compensation received by members' foreign affiliates. Members would remain responsible for complying with the rule's provisions for investment banking compensation received by the member and those affiliates based in the United States. Members who delay implementation would have to disclose that their foreign affiliates may (a) have managed or co-managed a public offering of the subject company's securities in the past 12 months; (b) have received compensation for investment banking services from the subject company in the past 12 months; or (c) expect to receive or intend to seek compensation for investment banking services from the subject company in the next 3 months. Members that delay implementation of Rule 2711(h)(2)(A)(ii) must notify NASD's Corporate Financing Department in writing at 9509 Key West Avenue, Rockville, MD 20850.

Trading Against Recommendations

Rule 2711 contains provisions that restrict personal trading by research analysts, but it does not completely prohibit ownership of securities that the analyst covers. One such restriction is found in Rule 2711(g)(3), which becomes effective on July 9, 2002. That provision prohibits a ''research analyst account'' from purchasing or selling a security or option or derivative of that security, in a manner contrary to the analyst's most recent published recommendation reflected in the member's research report. The rule defines ''research analyst account'' as any account in which a research analyst or member of the research analyst's household has a financial interest, or over which the analyst has discretion or control, except for an investment company registered under the Investment Company Act of 1940.

Several members have gone beyond the requirements of the rule and instituted internal policies that prohibit research analysts from owning securities that they cover. Most of these firms require that analysts divest themselves, over a certain period of time, of any existing holdings in securities they cover. Consequently, analysts could face the predicament of violating Rule 2711(g)(3) to comply with their firm's more restrictive policy because they could be required by their firm to divest their holdings in a security even as they maintained a buy recommendation in that security. Absent some relief from the rule, analysts would have to divest all holdings in securities they cover by July 9, 2002, or cease coverage in those securities in which they held positions.

To alleviate the described dilemma, and to allow an orderly liquidation of holdings, the NASD is proposing to delay implementation of Rule 2711(g)(3) until November 6, 2002, only for analysts that meet the following conditions: (a) They are employed by a member firm that, as of July 9, 2002, has adopted a policy that bans analyst ownership of securities they cover and further requires complete divestiture of existing holdings in those securities; (b) they abide by a reasonable plan of liquidation under which all shares are to be sold by November 6, 2002 and file that plan with their firm's legal or compliance department no later than July 9, 2002; (c) they receive written approval of the liquidation plan from their firm's legal or compliance department; and (d) they notify NASD's Corporate Financing Department of their delayed implementation of the provision in writing at 9509 Key West Avenue, Rockville, MD 20850.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[9] which requires, among other things, that the NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that this proposed rule change would reduce or expose conflicts of interest and thereby significantly curtail the potential for fraudulent and manipulative acts. The NASD further believes that the proposed rule change will provide investors with better and more reliable information with which to make investment decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the NASD as a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Rule 19b–4(f)(1) under the Act.[10] Consequently, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file

[9] 15 U.S.C. 78*o*–3 (b)(6).

[10] 17 CFR 240.19b–4(f)(1).

number SR–NASD–2002–87 and should be submitted by August 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17682 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46168; File No. SR–NASD–2002–65]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 by the National Association of Securities Dealers, Inc. to Amend Schedule A to the NASD By-Laws Relating to Transaction Fees

July 8, 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 May 21, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. On June 26, 2002, the NASD amended the proposal.[3] The NASD again amended the proposal on June 27, 2002.[4] The Association filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[5] and Rule 19b–4(f)(2) thereunder[6] as one establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend Section 8(b) of Schedule A to the NASD By-Laws to conform Schedule A to Section 31 of the Act,[7] as amended by H.R. 1088, the Investor and Capital Markets Fee Relief Act (''Fee Relief Act''). The text of the proposed rule change is below. Proposed additions are in italics; proposed deletions are in brackets.

BY-LAWS OF NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Schedule A

* * * * *

Section 8—Transaction Fees

* * * * *

(b) SEC transaction fee. Each member shall be assessed an *SEC* transaction fee. *The amount of the transaction fee shall be determined by the SEC in accordance with Section 31 of the Act.* [of 1/300 of one percent of the aggregate dollar value of sales of covered securities transacted by or through such member. For purposes of this section, covered securities shall mean:

(i) all securities traded otherwise than on a national securities exchange (other than bonds, debentures, other evidences on indebtedness, and any sale or any class of sales of securities which the Securities and Exchange Commission may exempt from the fee imposed by Section 31 of the Act, and securities described in subparagraph (ii)) that are subject to prompt last sale reporting and

(ii) effective October 1, 1997, securities registered on a national securities exchange pursuant to Section 12(b) of the Act (other than bonds, debentures, other evidences o[n]*f* indebtedness, and any sale or any class of sales of securities which the Securities and Exchange Commission may exempt from the fee imposed by Section 31 of the Act) traded otherwise than on such exchange.]

* * * * *

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 NASD 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 Association 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

Section 31 of the Act provides for the assessment of transaction fees (''Section 31 fees'') to be paid to the Commission. Section 31 levies transaction fees for exchange and off-exchange traded securities. Schedule A, Section 8(b) of the NASD By-Laws provides that these fees are assessed at a rate equal to 1/300 of one percent of the aggregate amount of sales transacted by or through any member of a national securities association or transacted on a national securities exchange (other than bonds, debentures, and other evidences of indebtedness and securities futures products). Under Schedule A, Section 8(b), the NASD collects the fee for off-exchange traded securities from members on behalf of the Commission.

On December 21, 2001, Congress passed the Fee Relief Act, which provides for the reduction of Section 31 fees. Specifically, the Fee Relief Act amends Section 31 to reduce the transaction fees collected from 1/300 of one percent to $15 per $1,000,000. This rate went into effect on December 28, 2001.

The Fee Relief Act also provides for an annual adjustment of the fee rate and, in some circumstances, a mid-year adjustment. The SEC will calculate the adjustments in accordance with the Fee Relief Act and publish the revised rates well in advance of any adjustment.

The proposed amendment to Schedule A to the NASD By-Laws conforms the NASD By-Laws to these Congressional changes and allows for future adjustments to be made to the rates as specified by the SEC and in Section 31 of the Act.

2. Statutory Basis

The NASD believes the proposed rule change is consistent with Section 15A(b)(5) of the Act,[8] which requires, among other things, that a national securities association's rules must provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* June 26, 2002 letter from T. Grant Callery, NASD, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), SEC, and attachments (''Amendment No. 1''). In Amendment No. 1, the NASD amended the statutory basis for the proposed rule change to reflect its belief that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act. 15 U.S.C. 78o–3(b)(5).

[4] *See* June 27, 2002 letter from T. Grant Callery, NASD, to Katherine England, Assistant Director, Division, SEC (''Amendment No. 2''). In Amendment No. 2, the NASD provided new proposed rule language to correct a technical problem with the proposed rule language previously provided. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have begun on June 27, 2002, the date that the NASD filed Amendment No. 2.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(2).

[7] 15 U.S.C. 78ee.

[8] 15 U.S.C. 78o–3(b)(5).

which the association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and subparagraph (f)(2) of Rule 19b–4 thereunder,[10] because the proposal establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR–NASD–2002–65 and should be submitted by August 5, 2002.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(3).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17683 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46163; File No. SR–NYSE–2001–45]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Permanent Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto, and Notice of Filing of and Order Granting Accelerated Approval to Amendment No. 3 Relating to Initial Listing Standards and Allocation Policy for Closed-End Management Investment Companies Registered Under the Investment Company Act of 1940

July 3, 2002.

I. Introduction

On October 29, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to 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 relating to amendments to the initial listing standards and allocation policy for closed-end management investment companies registered under the Investment Company Act of 1940 (hereinafter referred to as ''funds'' or ''closed-end funds''). On March 14, 2002, the NYSE filed Amendment No. 1 to the proposed rule change with the Commission.[3] On April 1, 2002, the NYSE filed Amendment No. 2 to the proposed rule change with the Commission.[4] On April 2, 2002, the Commission issued notice of, and granted partial accelerated approval to, the proposed rule change and Amendment Nos. 1 and 2 thereto, on a three-month pilot basis.[5]

The Commission received one comment letter on the proposed rule change, as amended.[6] On June 27, 2002, the NYSE file Amendment No. 3 to the proposed rule change with the Commission.[7] This order approves the proposed rule change, as amended, on a permanent basis and grants accelerated approval to Amendment No. 3. The Commission is also soliciting comments on Amendment No. 3 from interested persons.

II. Description of Proposal

The NYSE proposes to permanently amend Section 102.04 of the Exchange's Manual regarding listing standards for closed-end funds. The Exchange is proposing to apply to all individual closed-end funds that desire to list on the Exchange the $60 million public market value test currently used for funds applying in connection with their initial public offering. In addition, the Exchange is proposing a standard under which a group of funds meeting certain specified requirements can be listed concurrently by a single ''fund family,'' [8] even if the group includes one or more funds with less than $60 million in public market value. Specifically, the Exchange would generally authorize the listing of a fund family [9] if: (1) The total group market value of publicly held shares (offering proceeds, in the case of newly formed funds) equals in the aggregate at least $200 million; (2) each group averages at least $45 million in market value of

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 12, 2002 (''Amendment No. 1'').

[4] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated April 1, 2002 (''Amendment No. 2'') (replacing Form 19b–4 in its entirety).

[5] *See* Securities Exchange Act Release No. 45684 (April 2, 2002), 67 FR 17092 (April 9, 2002).

[6] *See* letter from Ari Burstein, Associate Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, Commission, dated April 30, 2002 (''ICI Letter'').

[7] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated June 25, 2002 (''Amendment No. 3''). In Amendment No. 3, the NYSE made a technical correction to the rule text and a conforming change to the purpose section to clarify the definition of affiliated persons in Section 102.04 of the NYSE Listed Company Manual (''Manual'') and Section V of the NYSE's Allocation Policy and Procedures (''Allocation Policy'').

[8] A ''fund family'' (as the term is used herein) consists of funds with a common investment adviser or having investment advisers, which are ''affiliated persons,'' as defined in Section 2(3) of the Investment Company Act of 1940, as amended. *See* Amendment No. 3, *supra* note 7. The Exchange represents that it will not have discretion to list a group of closed-end funds that desire to list concurrently by a fund family if the group does not satisfy the listing requirements for a fund family set forth in this proposal. However, the Exchange will retain the discretion to exclude a fund family that otherwise satisfies the requirements. Telephone conversation between Janet Kissane, Office of the General Counsel, NYSE, and Terri Evans, Assistant Director, and Frank N. Genco, Attorney, Division, Commission, on July 3, 2002.

[9] The Exchange has represented that the composition of the group will be determined in each case by the investment adviser bringing the group listing to the Exchange.

publicly held shares (proceeds) per fund; and (3) no one fund in the group has a market value of publicly held shares (proceeds) of less than $30 million. This group standard would apply regardless of whether the group consists of newly formed or existing funds, or a combination thereof.

Finally, the Exchange is proposing to amend its Allocation Policy to permit a fund family to be allocated to one specialist unit, unless the Allocation Committee believes it appropriate to allocate the group to more than one specialist unit. In certain situations, the Allocation Committee would be permitted to allocate funds within a group to more than one unit. Such situations could include, for example, instances where the number of funds in the group, the types of funds, or the relative values of the funds suggest to the Allocation Committee that allocation to more than one specialist unit would be appropriate.[10]

III. Summary of Comments

As noted above, the Commission received one comment letter regarding the proposal.[11] ICI supported the proposed rule change, as amended by Amendment Nos. 1 and 2, and believed that the proposal would facilitate the listing of closed-end funds on the Exchange, particularly for listings of closed-end funds from a single fund family. ICI noted that the proposal would eliminate the existing distinction between newly formed and existing funds for listing purposes that currently requires existing funds to meet the same financial standards applicable to regular operating companies. ICI emphasized that the adoption of listing eligibility criteria for closed-end funds should take into account that such funds are structured and regulated differently than regular operating companies and, therefore, different financial standards should be applied to closed-end funds as compared to regular operating companies. Finally, ICI noted that the allocation to one specialist unit of all of the closed-end funds in a fund family group may result in a more effective utilization of the resources of the Exchange.

[10] The Exchange has represented that the normal Allocation Policy would apply to closed-end funds being listed on the Exchange just as they apply to any other business corporation being listed. Therefore, the amendment being proposed hereby is altering the Allocation Policy in only the discreet manner specified. The Exchange also represented that all the other aspects of the Allocation Policy, including the method by which the listed company is permitted to pick from a panel of specialists put together by the Allocation Committee, would apply.

[11] *See* ICI Letter.

IV. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with the requirements under Section 6(b)(5) of the Act[12] that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public.[13]

The Commission believes that the proposed rule change strikes a reasonable balance between the Exchange's obligation to protect investors and their confidence in the market and the Exchange's obligation to perfect the mechanism of a free and open market by listing funds, including fund families, on the Exchange. The Commission also believes that providing an alternative method to list closed-end funds on the Exchange should accommodate the desire of fund families to list groups of closed-end funds on one marketplace.

Furthermore, the Commission believes that it is reasonable to permit the Allocation Committee under normal circumstances to allocate to one specialist unit all the closed-end funds in a family group listed under the group criteria. According to the Exchange, economies of scale and more effective utilization of resources may be realized by the allocation of a group of what are likely to be less actively traded securities to one specialist unit, rather than to have the individual funds within the group allocated to a number of units. The Commission notes, however, that the Allocation Committee would not be required to allocate the entire group to one specialist unit. The Committee retains the flexibility to allocate to more than one unit if there are factors present that make the Committee believe that allocation to more than one unit is appropriate.

Finally, the Commission notes that it has no knowledge of any problems or regulatory concerns that have developed since the approval of the three-month pilot program.[14] The Commission also notes that during the three-month pilot it received only one comment letter, which supported the proposed rule change. Accordingly, the Commission finds it appropriate and consistent with sections 6(b)(5) and 19(b)(2) of the Act[15] to approve the proposed rule change, as amended, on a permanent basis.

The Commission also finds good cause for accelerating approval of Amendment No. 3, because it merely clarifies the meaning of fund family to include those funds with a common investment adviser or having investment advisers which are affiliated persons, as defined by the Investment Company Act. Accordingly, the Commission finds that good cause exists, consistent with sections 6(b)(5) of the Act,[16] and section 19(b)(2) of the Act[17] to accelerate approval of Amendment No. 3 to the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

[12] 15 U.S.C. 78f(b)(5).

[13] In approving this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] Telephone conversation between Janet Kissane, Office of the General Counsel, NYSE, and Frank N. Genco, Attorney, Division, Commission, on July 2, 2002.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3, including whether the Amendment No. 3 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 NYSE. All submissions should refer to File No. SR–NYSE–2001–45 and should be submitted by August 5, 2002.

VI. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change, as amended, (File No. SR–NYSE–2001–45) is approved on a permanent basis.

[15] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17681 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANCE COMMISSION

[Release No. 34–46167; File No. SR–PHLX–2002–09]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Amend Rules for the Administration of Order, Decorum, Health, Safety, and Welfare on the Exchange

July 8, 2002.

On February 1, 2002, 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 certain Rules for the administration of order, decorum, health, safety, and welfare on the Exchange. The proposal would add procedures to govern actions by Floor Officials and Exchange staff to summarily remove a member from the floor for breaches of regulations that relate to the administration of order, decorum, health, safety and welfare on the Exchange, increase fine amounts for order and decorum violations as specified in proposed Regulation 4, reorganize current Regulation 4 for clarity, and amend Article VIII, Section 8–1 and Article X, Section 10–11 of the Exchange's By-Laws to eliminate inconsistencies with Exchange rules.

The Phlx amended the proposal on May 7, 2002. The proposed rule change, as amended, was published for comment in the **Federal Register** on May 16, 2002.[3] The Commission received no comments on the proposal.

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 Act[5] 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] because it will help prevent fraudulent and manipulative acts and practices, as well as promote just and equitable principles of trade. The Commission finds the proposal is consistent with Section 6(b)(6) of the Act,[7] because the proposal provides a mechanism for the appropriate discipline for violations of certain rules and regulations.

In addition, the Commission finds the proposal is consistent with Section 6(b)(7) of the Act[8] because the proposal provides a fair procedure for the disciplining of members and persons associated with members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[9], that the proposed rule change (SR–PHLX–2002–09), as amended, 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. 02–17680 Filed 7–12–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3428]

State of Texas; (Amendment #1)

In accordance with a notice received from the Federal Emergency Management Agency, dated July 4, 2002, the above numbered declaration is hereby amended to include Bandera, Gillespie, Kendall and Uvalde Counties in the State of Texas as disaster areas due to damages caused by severe storms and flooding occurring on June 29, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Kinney, Mason and Maverick Counties in Texas. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is September 2, 2002, and for economic injury the deadline is April 4, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 5, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–17643 Filed 7–12–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 36 existing Small Business Development Centers (SBDCs) for refunding on January 1, 2003, subject to the availability of funds. Twelve states do not participate in the EO 12372 process, therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 120 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

Addresses of Relevant SBDC State Directors

Mr. Michael Finnerty, State Director, Salt Lake Community College, 1623 South State Street, Salt Lake City, UT 84115, (801) 957–3481.

Mr. Keith Coppage, Acting State Director, California Trade & Comm. Agency, 801 K Street, Suite 1700, Sacramento, CA 95814, (916) 323–0459.

[19] 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. 45905 (May 10, 2002), 67 FR 34978.

[4] 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).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78f(b)(7).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

Mr. Henry Turner, Executive Director, Howard University, 2600 6th St., NW., Room 125, Washington, DC 20059, (202) 806–1550.
Dr. Bruce Whitaker, Director, American Samoa Community College, PO Box 2609, Pago Pago, American Samoa 96799, 011–684–699–9155.
Ms. Kelly Manning, State Director, Office of Business Development, 1625 Broadway, Suite 1710, Denver, CO 80202, (303) 892–3794.
Mr. Jerry Cartwright, State Director, University of West Florida, 19 West Garden Street, Pensacola, FL 32501, (850) 595–6060.
Mr. Hank Logan, State Director, University of Georgia, Chicopee Complex, Athens, GA 30602, (706) 542–6762.
Mr. Sam Males, State Director,University of Nevada/Reno, College of Business Administration, Room 411, Reno, NV 89557–0100, (775) 784–1717.
Ms. Debbie Bishop Trocha, State Director, Economic Development Council, One North Capitol, Suite 420, Indianapolis, IN 46204,(317) 234–2086.
Mr. Darryl Mleynek, State Director, University of Hawaii/Hilo, 200 West Kawili Street, Hilo, HI 96720, (808) 974–7515.
Mr. Mark Petrilli, State Director, Department of Commerce and, Community Affairs, 620 East Adams Street, Springfield, IL 62701, (217) 524–5856.
Ms. Mary Collins, State Director, University of New Hampshire, 108 McConnell Hall, Durham, NH 03824, (603) 862–4879.
Mr. John Massaua, State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780–4420.
Mr. Scott Daugherty, State Director, University of North Carolina,5 West Hargett Street, Suite 600, Raleigh, NC 27601–1348, (919) 715–7272.
Mr. Casey Jeszenka, Director, University of Guam, PO Box 5061—U.O.G. Station, Mangilao, Guam 96923, (671) 735–2553.
Ms. Carol Lopucki, State Director, Small Business Development Center, Grand Valley State University, 510 West Fulton Avenue, Grand Rapids, MI 49504, (616) 336–7480.
Mr. George Youngerman, Acting State Director, University of North Dakota, PO Box 7308, Grand Forks, ND 58202, (701) 777–3700.
Ms. Erica Kauten, State Director, University of Wisconsin, 432 North Lake Street, Room 423, Madison, WI 53706, (608) 263–7794.
Mr. Greg Higgins, State Director, University of Pennsylvania, The Wharton School, 444 Vance Hall, Philadelphia, PA 19104, (215) 898–1219.
Mr. John Lenti, State Director, University of South Carolina, College of Business Administration, 1710 College Street, Columbia, SC 29208, (803) 777–4907.
Mr. Albert Laabs, State Director, Tennessee Board of Regents, 1415 Murfreesboro Road, Suite 324, Nashville, TN 37217–2833, (615) 366–3931.
Mr. Robert Hamlin, State Director, Bryant College, 1150 Douglas Pike, Smithfield, RI 02917, (401) 232–6111.
Mr. Wade Druin, State Director, University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 677–5287.
Ms. Carolyn Clark, State Director, Washington State University, 601 West First Avenue, Spokane, WA 99202–3899, (509) 358–7765.

FOR FURTHER INFORMATION CONTACT: Johnnie L. Albertson, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Suite 4600, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) Increase economic growth;

(c) Assist more small businesses; and

(d) Broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: July 10, 2002.

Johnnie L. Albertson,

Associate Administrator for Small Business Development Centers.

[FR Doc. 02–17690 Filed 7–12–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending June 28, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–12564.

Date Filed: June 24, 2002.

Parties: Members of the International Air Transport Association.

Subject: CAC/30/Meet/004/02 dated April 29, 2002, r-1—Expedited Resolution 801r, CAC/30/Meet/005/02 dated May 8, 2002, r-2—Expedited Resolution 851, r-3—Expedited Resolution 853, Intended effective date: expedited for June 1/July 1, 2002.

Docket Number: OST–2002–12700.

Date Filed: June 28, 2002.

Parties: Members of the International Air Transport Association.

Subject: CTC COMP 0394 dated 21 June 2002 and CTC COMP 0401 dated 25 June 2002 (technical correction), CTC COMP 0397 dated 21 June 2002, Cargo Resolutions except to/from USA/US Territories (r1–r37), Minutes—CTC COMP 0400 dated 25 June, Intended effective date: 1 October 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–17746 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending July 5, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Section 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–12698.

Date Filed: July 1, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC2 ME 0107 dated 28 June 2002, TC2 Within Middle East Expedited Resolution 002oo, Intended effective date: 15 August 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–17748 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending June 28, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–12569.

Date Filed: June 24, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 15, 2002.

Description: Application of Atlantic Coast Jet, Inc., requesting reissuance of its certificate of public convenience and necessity in the name of Atlantic Coast Jet, LLC, or in the alternative, approval of the transfer of Atlantic Coast Jet's certificate authority to Atlantic Coast Jet, LLC.

Docket Number: OST–2002–12632.

Date Filed: June 26, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 17, 2002.

Description: Application of Tatonduk Outfitters, Ltd. d/b/a, Tatonduk Flying Service d/b/a, Air Cargo Express, pursuant to Section 215.4, requesting registration of a name change and reissuance of certificates of public convenience in the name of Tatonduk to Tatonduk Outfitters Limited d/b/a Tatonduk Flying service d/b/a, Air Cargo Express d/b/a, Everts air Alaska d/b/a Everts Air Cargo.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–17747 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2002–12504] Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting to be held to solicit comments and information on a final rule that the FAA published June 21, 2002, on security considerations for the flightdeck on foreign operated transport category airplanes. The final rule requires the same level of safety for flightdeck protection for foreign air carriers operating to, from, and over the U.S. as required for U.S. air carriers. This notice announces the date, time, location and procedures for the public meeting.

DATES: The meeting will be held on Tuesday, July 30, 2002, beginning at 9 a.m. Persons unable to attend the meeting are invited to provide written comments to the DOT Docket Management System, on or before August 20, 2002.

ADDRESSES: The public meeting will be held at the National Transportation Safety Board Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594. Persons unable to attend the meeting may mail their comments in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA–2002–12504, 400 Seventh Street, SW, Plaza Level, Room 401, Washington, DC 20590. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: *http://dms.dot.gov/* at anytime. Commenters who wish to file comments electronically, should follow the instructions on the DMS web site. Comments may be filed and/or examined at the U.S. Department of Transportation Dockets, Plaza Level, Room 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Effie Upshaw, Federal Aviation Administration, Office of Rulemaking, ARM–209, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7626; fax (2020 267–5075; e-mail: *effie.upshaw@faa.gov.*

Questions concerning the applicability of the part 129 requirements should be directed to Michael E. Daniel, International Liaison Staff, AFS–50, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–4510; fax (202) 385–4561; e-mail: *mike.e.daniel@faa.gov.*

Background

On September 11, 2001, the United States experienced terrorist attacks when aircraft were commandeered and used as weapons. These actions demonstrated that there is a need to improve the design, operational, and procedural security of the flightdeck.

In response, the FAA amended Title 14 Code of Federal Regulation part 121 to require that certain U.S. air carriers install reinforced flightdeck doors that

provide intrusion resistance and ballistic penetration resistance by April 9, 2003 (Amendment 121–288, 67 FR 2881, January 15, 2002). As discussed in the preamble to Amendment 121–288, the FAA expected that foreign operators conducting service to and from the United States under part 129 would have flightdeck security measures commensurate with those of U.S. carriers.

On June 21, 2002, the FAA issued a final rule entitled ''Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes'' (67 FR 42450). The final rule requires improved flightdeck security and other operational and procedures changes to prevent unauthorized access to the flightdeck on passenger-carrying aircraft and some cargo aircraft operated by foreign carriers under the provisions of part 129. The FAA is holding this public meeting to give the public an additional opportunity to comment on the final rule.

Participation at the Meeting

The FAA should receive requests from persons who wish to present oral statements at the meeting no later than July 25, 2002. Such requests should be submitted to Effie Upshaw, as listed above in the section titled **FOR FURTHER INFORMATION CONTACT**, and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. An agenda of speakers will be available at the meeting. The names of those individuals who request to present oral statements after the date specified above may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Persons requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Public Meeting Procedures

The FAA will use the following procedures to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who are scheduled to present statements or who register between 8:30 a.m. and 9 a.m. on the day of the meeting. While the FAA will make every effort to accommodate all persons wishing to participate, admission will be subject to availability of space in the meeting room. The meeting may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meeting.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(3) The FAA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the FAA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(4) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

(5) Representatives of the FAA will preside over the meeting. A panel of FAA personnel involved in this rulemaking will be present.

(6) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the FAA representatives during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. Additional transcript purchase information will be available at the meeting.

(7) The FAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or arguments related to the rule may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide nine copies of all materials to be presented for distribution to the FAA representatives; other copies may be provided to the audience at the discretion of the participant.

(8) Statements made by FAA representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by an FAA representative is not intended to be, and should not be construed as, a position of the FAA.

(9) The meeting is designed to solicit public views and gather additional information on the rule. Therefore, the meeting will be conducted in an informal and non-adversarial manner. No individual will be subject to cross-examination by any other participant; however, FAA representatives may ask questions to clarify a statement and to ensure a complete and accurate record.

(10) As this issue is closely related to rulemaking adopted for domestic U.S. operations (which is also an area of high public interest), the FAA anticipates that the domestic rulemaking may be brought up during the meeting. To the extent that such discussions are relevant to the subject of flightdeck security on foreign operated airplanes, they will be allowed to proceed. However, discussions that are not relevant to the purpose of the meeting will be ruled out of order and the meeting Chair will move on to the next discussion item.

Issued in Washington, DC on July 9, 2002.

Tony Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–17738 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at the Hunstville International Airport, AL

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Hunstville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 14, 2002.

ADDRESSES: Comments on the application may be mailed or delivered in triplicate to the FAA at the following address: Jackson, MS Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 392082307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther H. Roberts, Jr., AAE, Deputy Director of the Huntsville-Madison County Airport Authority at the following address: 1000 Glenn Hearn Boulevard, Box 20008, Hunstville, AL 35834.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Huntsville-Madison County Airport Authority under section 158.23 of part 158

FOR FURTHER INFORMATION CONTACT: Mr. Roderick T. Nicholson, Program Manager, FAA Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9884. The

application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Hunstville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 8, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Huntsville-Madison County Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 24, 2002.

The following is a brief overview of the application.

PFC Application: 02–12–C–00–HSV.

Level of the proposed PFC: $4.50.

Proposed charge effective date: September 1, 2002.

Proposed charge expiration date: November 2, 2004.

Total estimated net PFC revenue: $2,649,591.

Brief description of proposed project(s): Extend Runway 18R/36L 4,600 feet; Acquire Noise Land (101.7 acres); Acquire Security Vehicle (2002).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Any Air Taxi/Commercial Operator (ATCO), Certified Air Carriers (CAC) and Certified Route Air Carriers (CRAC) having fewer than 500 annual enplanements.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Huntsville-Madison County Airport Authority.

Issued in Jackson, MS on July 8, 2002.

Wayne Atkinson,

Manager, Jackson, MS Airports District Office, Southern Region.

[FR Doc. 02–17734 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Correction—Fidelity and Deposit Company of Maryland and Transatlantic Reinsurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 1 to the Treasury Department Circular 570; 2002 Revision, published July 1, 2002 at 67 FR 44293.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: The underwriting limitation for Fidelity and Deposit Company of Maryland and Transatlantic Reinsurance Company which were last listed in Treasury Department Circular 570, July 1, 2002, revision, at 67 FR 44293 as $5,748,000 and $101,985,000 respectively, are hereby corrected to read $11,899,000 and $126,406,000 respectively, effective today.

Federal bond-approving officers should annotate their references copies of the Treasury Circular 570, 2002 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.* A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F07, Hyattsville, MD 20782.

Dated: July 3, 2002.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 02–17713 Filed 7–12–02; 8:45 am]

BILLING CODE 4810–35–M

Corrections

Federal Register

Vol. 67, No. 135

Monday, July 15, 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.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwain

Correction

In notice document 02–16508 beginning on page 44174 in the issue of Monday, July 1, 2002, make the following correction:

On page 16508, in the second column, the docket number is corrected to read as set forth above.

[FR Doc. C2–16508 Filed 7–12–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Ricin Vaccine and Methods of Making and Using Thereof

Correction

In notice document 02–16885 appearing on page 44809 in the issue of Friday, July 5, 2002, make the following correction:

On page 44809, in the first column, under the **''SUMMARY:''** section, in the fourth line, ''110/083.336'' should read ''110/083,336''.

[FR Doc. C2–16885 Filed 7–12–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement/ Subsequent Environmental Impact Report for a Permit Application for the Proposed West Basin Marine Terminal Improvement Projects in the Port of Los Angeles, Los Angeles County, CA

Correction

In notice document 02–16886 beginning on page 44810 in the issue of Friday, July 5, 2002, make the following corrections:

1. On page 44810, in the first column, under **SUMMARY:** in the 21st line, remove the phrase ''Subsequent Envrionmental Impact Statement''.

2. On page 44810, in the second column, under **ADDRESSES:** in the eighth and ninth lines, ''Dr. Ralph Apply'' should read ''Dr. Ralph Appy''.

[FR Doc. C2–16886 Filed 7–12–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

Correction

In notice document 02–15868 beginning on page 42549 in the issue of Monday, June 24, 2002, make the following correction:

On page 42549, under **DATES:**, in the second line ''August 23, 2002'' should read ''July 24, 2002''.

[FR Doc. C2–15868 Filed 7–12–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
July 15, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Transition to an All Stage 3 Fleet Operating in the Contiguous United States and the District of Columbia; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2002–12771; Amendment No. 91–276]

RIN 2120–AH41

Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule removes outdated language, revises several sections, and adds one new section to the noise operating regulations. Some revisions are a result of statutory changes to the Airport Noise and Capacity Act. New requirements define specific filing procedures and criteria for special flight authorizations. These revisions will make the noise operating regulations consistent with statutory provisions.

DATES: This final rule is effective July 15, 2002. Comments must be received on or before August 14, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–12771 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* 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: Laurette Fisher, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3561; facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Comments Invited

Although 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; February 26, 1979) provide that, to the maximum extent possible, operating administrations within 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 such written data, views, or arguments, as they may desire. 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 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.

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.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–2002.'' The postcard will be date-stamped by the FAA and mailed to the commenter.

Availability of Final Rule

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

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page *(http://dms.dot.gov/search).*

(2) On the search page type in the last five digits of the Docket number how at the beginning of this document. 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 Office of Rulemaking's Web page at *http://www.faa.gov/avr/armhome.htm* or the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site, *http://www.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us *9–AWA–SBREFA@faa.gov.*

Background

The Airport Noise and Capacity Act of 1990 (49 U.S.C. 47528 *et seq.*) (ANCA), prohibits the operation of Stage 2 civil subsonic turbojet airplanes with a maximum weight of more than 75,000 pounds in the contiguous United States after December 31, 1999. The ANCA also required the Federal Aviation Administration (FAA) to establish by regulation a schedule of phased compliance that would eliminate Stage 2 operations by the final compliance date.

Those regulations were promulgated in 1991, and codified at 14 CFR 91.851–91.877. In general, the regulations required each operator of Stage 2 airplanes to progressively reduce the number of Stage 2 airplanes it operates incrementally by 25% by the end of 1994, 1996, and 1998, respectively. In the alternative, operators could choose to operate a fleet of airplanes that was increasingly Stage 3: 55% after 1994, 65% after 1996, and 75% after 1998. Under either option, except as provided in the ANCA, no Stage 2 airplane has been allowed to operate in the contiguous United States after December 31, 1999.

On November 29, 1999, ANCA was amended. The prohibition on revenue operation of Stage 2 airplanes after December 31, 1999, remains in effect. The amended law permits certain nonrevenue Stage 2 operations to occur after December 31, 1999. Specifically, any operator of a Stage 2 airplane over

75,000 pounds may operate that airplane in the contiguous United States only for the following purposes:

- Sell, lease, or scrap the airplane.
- Obtain modifications to meet Stage 3 noise levels.
- Obtain scheduled heavy maintenance or significant modifications.
- Deliver the airplane to a lessee or return it to a lessor.
- Park or store the airplane.
- Prepare the airplane for any of these events.

On December 17, 1999 (64 FR 70571), the FAA published a notice of these statutory changes. As part of that notice, the FAA instructed operators how to apply for special flight authorizations.

Further Amendments to ANCA

The original language of ANCA did not allow foreign air carriers to apply for a waiver from the Stage 2 final compliance requirement. On April 5, 2000, ANCA was again amended by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (commonly known as AIR 21). Section 721(d) of AIR 21, ''Waivers For Aircraft Not Complying With Stage 3 Noise Levels,'' allowed foreign air carriers, for a limited time, to apply for a waiver from the Stage 3 aircraft requirement of 49 U.S.C. 47528(a). The amended statutory provision stated that a foreign air carrier had until the 15th day following the date of enactment of AIR 21 to file an application for a waiver; the deadline was April 20, 2000.

Section-by-Section Analysis

The FAA is amending its regulations consistent with Public Law 106–113 and § 721(d) of AIR 21. The following is an explanation of the changes to each affected section of the regulations.

PART 91 SUBPART I—OPERATING NOISE LIMITS

Section 91.801(c) Applicability: Relation to Part 36

This section applies to any civil subsonic turbojet airplane with a maximum certificated weight of more than 75,000 pounds. The amendment to ANCA inserted the phrase ''(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)'' after ''civil subsonic turbojet.'' The effect of the amendment and the changes to paragraph (c) of § 91.801 is to limit applicability of these regulations to U.S.-registered civil subsonic turbojet for which the Administrator has issued an airworthiness certificate other than an experimental certificate. This change makes the current regulation consistent with the amended ANCA.

The original text of ANCA places limits on the operation of airplanes ''with a maximum weight of more than 75,000 pounds'' That language is not specific given the number of aircraft weights that may be recorded for an individual airplane. Since the regulations were adopted in 1991, the FAA has considered this weight to be the maximum takeoff weight of the airplane, which is recognized throughout the industry. Accordingly, the FAA is adding the term ''takeoff'' to section 91.801(c) to codify which weight is to be used in referring to the noise operating regulations. No operational changes or changes in aircraft status will result from this addition because the FAA has always used maximum takeoff weight in determining whether an airplane was subject to the law and these regulations. The change is intended to eliminate any future questions or remaining confusion about which airplane weight will be used.

Section 91.803(b) Part 125 Operators: Designation of Applicable Regulations

This paragraph is amended to remove references to other sections that are removed.

Section 91.807 Phased Compliance Under Parts 121, 125, and 135: Subsonic Airplanes

This section sets out the compliance schedule for the elimination of Stage 1 airplanes. The text is removed since the requirements no longer apply to any operator. The section number is reserved.

Section 91.809 Replacement Airplanes

This section sets out the planes for replacing Stage 1 airplanes. The text is removed since the requirements no longer apply any operator. The section number is reserved.

Section 91.811 Service to Small Communities Exemption: Two-Engine, Subsonic Airplanes

This section provided a basis for exemption for the operation of certain Stage 1 airplanes. The text is removed since the requirements no longer apply to any operator. The section number is reserved.

Section 91.813 Compliance Plans and Status: U.S. Operations of Subsonic Airplanes

This section sets out the requirements for compliance plans for the elimination of Stage 1 airplanes. The text is removed since the requirements no longer apply to any operator. The section number is reserved.

Section 91.857 Stage 2 Operations Outside of the 48 Contiguous United States, and Authorization for Maintenance

Section 91.857(b) allowed operators of Stage 2 airplanes that legally operated their airplanes outside the contiguous United States to obtain a special flight authorization to bring those airplanes into the contiguous United States for maintenance. The FAA's authority to allow these flights expired as of December 31, 1999. The reference to authorization for maintenance is removed from the section title, and the text of § 91.857(b) is deleted since the authorizations are no longer available. The paragraph (a) designation is also removed because the remaining text is a single paragraph.

New Section 91.858 Special Flight Authorization for Non-Revenue Stage 2 Operations

This is a new section on special flight authorizations for non-revenue Stage 2 operations. These authorizations were provided for by the amendment to ANCA in November 1999, described earlier in this document. The information specified in this section was published in the **Federal Register** on December 17, 1999. Adoption of this information into the current regulations makes them consistent with the amended ANCA.

Section 91.859 Modification To Meet Stage 3 Noise Levels

The text of this section is removed because the November 1999 change to ANCA included Stage 3 modification as one of the bases for a special flight authorization.

Section 91.873 Waivers From Final Compliance

The FAA is making two changes to § 91.873 in this final rule. One change revises § 91.873(a) by adding the words ''or a foreign air carrier'' after the words ''U.S. air carrier.'' The other change revises § 91.873(b) by adding the date of application for a foreign air carrier. In the case of a foreign air carrier, AIR 21 required that the application be filed by the 15th day following the date of enactment of the law; that date was April 20, 2000. To avoid confusion, the FAA decided to incorporate these two changes to make the regulations consistent with the statutory provisions of AIR 21 passed on April 5, 2000.

Paperwork Reduction Act

Information collection requirements contained in 14 CFR part 91 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB control number 2120–0652. There are no new requirements for information collection associated with this amendment.

Good Cause for Immediate Adoption

When Congress amended ANCA in November 1999, it stated that the regulations were considered to be modified where they conflicted with any new statutory provision (Public Law 106–113). In an effort to distribute this information to the affected public, the FAA published a notice of these changes on December 17, 1999, as described earlier, and stated that this change to the current regulations would be made.

Similarly, the April 2000 changes to ANCA by AIR 21 effectively changed the affected regulations at that time.

In addition to the statutory changes described, the FAA is removing outdated portions of text in the noise operating regulations. Since none of these changes has any effect on current operators, the FAA finds that prior notice and public comments are unnecessary.

Although this final rule is being adopted without prior notice and public comment, interested persons may submit comments in duplicate to the address listed under the **ADDRESSES** caption above. This final rule may be amended in response to such comments.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this final rule indicates that its economic impact is negligible. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is negligible.

Economic Evaluation

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency must propose or adopt a regulation only upon a reasonable determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation).

However, for regulations with an expected minimal impact the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full evaluation, a statement to that effect and the basis for it is included in proposed regulation.

Since this final rule will remove and reserve sections concerning outdated Stage 1 requirements and revise other sections of the noise regulations, the expected cost impact will be negligible. The new section 91.858 on special flight authorizations allows operators to fly Stage 2 airplanes into the contiguous United States for specific purposes that would otherwise be prohibited. Since an operator may choose to apply for a special flight authorization if needed, the FAA has determined that his rule allows some cost savings to certain foreign operators while imposing only negligible costs on society at large. This rule is not a ''significant regulatory action'' as defined in the Executive Order and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; will not have a significant impact on a substantial number of small entities; reduces barriers to international trade; and does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Act) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the final rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the act.

However, if an agency determines that the final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In view of the negligible cost impact of the rule, the FAA has determined that this final rule will have no significant economic impact on a substantial number of small entities. Consequently, the FAA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

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 used as the basis for U.S. standards. In addition, consistent with this Administration's belief in the general superiority and desirability of free trade, it is the policy

of this Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule and has determined that it will reduce costs for some international entities.

Unfunded Mandated Assessment

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 States, 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.''

This final rule does not contain a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a 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. Therefore, the FAA has determined that this final rule would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, amended (42 U.S.C. 6362) and FAA Order 1050.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 91

Aircraft, Noise control, Reporting and record keeping requirements.

The Amendments

In consideration of the foregoing the Federal Aviation Administration amends part 91 of Chapter I of Title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 447121, 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).

§ 91.801 [Amended]

2. Amend § 91.801 by revising paragraph (c) to read as follows:

§ 91.801 Applicability: Relation to part 36.

* * * * *

(c) Sections 91.851 through 91.877 of this subpart prescribe operating noise limits and related requirements that apply to any civil subsonic turbojet airplane (for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator) with a maximum certificated takeoff weight of more than 75,000 pounds operating to or from an airport in the 48 contiguous United States and the District of Columbia under this part, parts 121, 125, 129, or 135 of this chapter on and after September 25, 1991.

§ 91.803 [Amended]

3. Amend § 91.803 by removing the phrase ''91.809, 91.811 and 91.813'' in paragraph (b).

§ 91.807 [Removed and Reserved]

4. Section 91.807 is removed and reserved.

§ 91.809 [Removed and Reserved]

5. Section 91.809 is removed and reserved.

§ 91.811 [Removed and Reserved]

6. 91.811 removed and reserved.

§ 91.813 [Removed and Reserved]

7. 91.813 is removed and reserved.

§ 91.857 [Revised]

8. Revise § 91.857 to read as follows:

§ 91.857 Stage 2 operations outside of the 48 contiguous United States.

An operator of a Stage 2 airplane that is operating only between points outside the contiguous United States on or after November 5, 1990, must include in its operations specifications a statement that such airplane may not be used to provide air transportation to or from any airport in the contiguous United States.

9. Add § 91.858 to read as follows:

§ 91.858 Special flight authorizations for non-revenue Stage 2 operations.

(a) After December 31, 1999, any operator of a Stage 2 airplane over 75,000 pounds may operate that airplane in nonrevenue service in the contiguous United States only for the following purposes:

(1) Sell, lease, or scrap the airplane;

(2) Obtain modifications to meet Stage 3 noise levels;

(3) Obtain scheduled heavy maintenance or significant modifications;

(4) Deliver the airplane to a lessee or return it to a lessor;

(5) Park or store the airplane; and

(6) Prepare the airplane for any of the purposes listed in paragraph (a)(1) thru (a)(5) of this section.

(b) An operator of a Stage 2 airplane that needs to operate in the contiguous United States for any of the purposes listed above may apply to FAA's Office of Environment and Energy for a special flight authorization. The applicant must file in advance. Applications are due 30 days in advance of the planned flight and must provide the information necessary for the FAA to determine that the planned flight is within the limits prescribed in the law.

§ 91.859 [Removed and Reserved]

10. Section 91.859 is removed and reserved.

§ 91.873 [Amended]

11. Amend § 91.873 by revising paragraphs (a) and (b) to read as follows:

§ 91.873 Waivers from final compliance.

(a) A U.S. air carrier or a foreign air carrier may apply for a waiver from the prohibition contained in § 91.853 of this part for its remaining Stage 2 airplanes, provided that, by July 1, 1999, at least 85 percent of the airplanes used by the carrier to provide service to or from an airport in the contiguous United States will comply with the Stage 3 noise levels.

(b) An application for the waiver described in paragraph (a) of this section must be filed with the Secretary of Transportation no later than January 1, 1999, or, in the case of a foreign air

carrier, no later than April 20, 2000. Such application must include a plan with firm orders for replacing or modifying all airplanes to comply with Stage 3 noise levels at the earliest practicable time.

* * * * *

Issued in Washington, DC on July 10, 2002.

Jane F. Garvey,

Administrator.

[FR Doc. 02–17744 Filed 7–12–02; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Monday,
July 15, 2002

Part III

The President

Memorandum of July 2, 2002—Delegation of Authority Under Section 124 of the National Defense Authorization Act for Fiscal Year 2001

Federal Register
Vol. 67, No. 135
Monday, July 15, 2002

Presidential Documents

Title 3—

The President

Memorandum of July 2, 2002

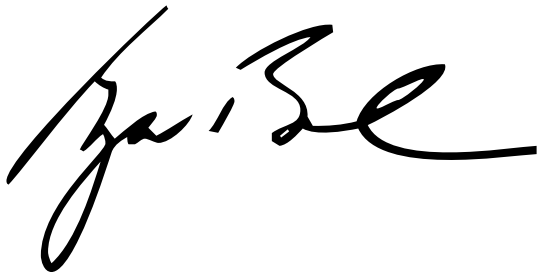
Delegation of Authority Under Section 124 of the National Defense Authorization Act for Fiscal Year 2001

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and laws of the United States of America, you are delegated the authority and assigned the responsibility of the President under section 124(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398).

The authority delegated by this memorandum may be redelegated, in writing, not lower than the Under Secretary of Defense level.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 2, 2002.

[FR Doc. 02–17938
Filed 7–12–02; 8:45 am]
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Federal Register

Vol. 67, No. 135

Monday, July 15, 2002

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FEDERAL REGISTER PAGES AND DATE, JULY

44015–44348 1
44349–44522 2
44523–44756 3
44757–45048 5
45049–45292 8
45293–45626 9
45627–45894 10
45895–46092 11
46093–46368 12
46369–46576 15

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7529 (See 7576) 45285
7575 44755
7576 45285

Executive Orders:
13021 (Revoked by 13270) 45288
13129 (See EO 13268) 44751
13224 (Amended by EO 13268) 44751
13268 44751
13269 45287
13270 45288
13271 46091

Administrative Orders:
Memorandums:
Memorandum of July 2, 2002 46575

7 CFR

301 44523
457 46093
762 44015
982 45049
1200 44349
1520 45895

Proposed Rules:
300 45922
319 45922
800 44571
922 44095
993 46423
1724 44396
1726 44396
1755 44396

8 CFR

214 44344

Proposed Rules:
103 45402
212 45402
245 45402

9 CFR

94 ..... 44016, 44524, 45896

Proposed Rules:
93 44097

10 CFR

72 46369
431 ..... 45018, 45028

Proposed Rules:
170 44573
171 44573

12 CFR

Ch. III 44351
261a 44526

Proposed Rules:
703 44270
704 44270
1720 44577

14 CFR

21 45194
25 ..... 44018, 45627
36 45194
39 ..... 44024, 44028, 44030, 44526, 44527, 45053, 45192, 45293, 45295, 45629, 45897, 46096, 46098, 46100, 46372
71 ..... 45192, 45630, 45631, 45632
91 ..... 45194, 46568
95 ..... 44033, 45296
97 46102
1260 45790
1274 45790

Proposed Rules:
25 44111
39 ..... 44116, 44119, 44401, 44404, 44578, 45410, 45412, 45675, 45678, 45680, 46130, 46132, 46423, 46425, 46427
71 45682

15 CFR

700 45632
719 45632
720 45632
766 45632

Proposed Rules:
930 44407

17 CFR

1 44036
4 44931
30 45056
140 45299
240 46104

Proposed Rules:
210 44964
229 44964

18 CFR

284 44529

21 CFR

14 45900
172 45300
510 45900
522 45901
558 44931

Proposed Rules:
312 44931

22 CFR

11 46108
126 44352

24 CFR

Proposed Rules:
1000 44787

25 CFR

11.....44353
170.....44355
580.....46109
Proposed Rules:
504.....46134

26 CFR

1.....45310
602.....45310
Proposed Rules:
1 .....45414, 45683, 45933
31.....44579, 45414
301.....44579

27 CFR

Proposed Rules:
9.....45437

28 CFR

Proposed Rules:
549.....46136

29 CFR

1904.....44037
1915.....44533
1926.....46375
4022.....46376
4044.....46376
Proposed Rules:
1904.....44124

30 CFR

250.....44265, 44357
931.....46377
Proposed Rules:
14.....46431
18.....46431
75.....46431
917.....46432
926.....46434

31 CFR

103.....44048

32 CFR

199.....45311

33 CFR

100 .....44547, 44548, 44550, 44551, 45313, 45633
117.....44553, 45059
165 .....44057, 44059, 44360, 44362, 44364, 44367, 44555, 44557, 44558, 44562, 44564, 44566, 45060, 45313, 45902, 45903, 45905, 45907, 46385, 46387, 46388, 46389
Proposed Rules:
110.....45071
117.....44582
165.....45945

34 CFR

200.....45038

36 CFR

1201.....44757
1275.....44765
Proposed Rules:
1254.....45683

37 CFR

261.....45240

39 CFR

111.....45061
265.....46393

40 CFR

52 .....44061, 44062, 44065, 44369, 45064, 45066, 45909, 45914
63 .....44371, 44766, 45588, 45886, 46393
81 .....44769, 45635, 45637
180 .....45639, 45643, 45650
228.....44770
258.....45948
271.....44069
302.....45314
Proposed Rules:
52 .....44127, 44128, 44410, 45073, 45074, 45684, 45947
60.....45684
63 .....44672, 44713, 46028, 46258
70.....46439
81.....44128, 45688
258.....45948
261.....46139
302.....45440

42 CFR

412.....44073
413.....44073

44 CFR

64.....44077
65.....45656, 46398
67.....45658, 45665
Proposed Rules:
67.....45689, 45691

45 CFR

0.....45357
2510.....45357
2520.....45357
2521.....45357
2522.....45357
2524.....45357
2525.....45357
2526.....45357
2528.....45357
2550.....45357

46 CFR

540.....44774

47 CFR

0.....46112
1.....45362, 46298
2.....45380
15.....45666
18.....45666
21.....45362
22.....45362
24.....45362
25.....45362
27.....45362, 45380
36.....44079
43.....45387
63.....45387
73 .....44777, 45362, 45380
74.....45362
80.....45362
90.....45362
95.....45362
100.....45362
101.....45362
Proposed Rules:
73 .....44790, 44791, 44792, 46148

48 CFR

1842.....44777
204.....46112
252.....46123
253.....46112

49 CFR

172.....46123
174.....46123
175.....46123
176.....46123
177.....46123
501.....44083
541.....44085
571.....45440
572.....46400
573.....45822
574.....45822
576.....45822
579.....45822
659.....44091
Proposed Rules:
571.....44416, 46149

50 CFR

17 .....44372, 44382, 44502
229.....44092
300.....44778, 46420
600.....44778
622.....44569
635.....45393
648 .....44392, 44570, 45401
660.....44778
679 .....44093, 45069, 45671, 45673, 45920, 45921, 46024
Proposed Rules:
17 .....44934, 45696, 46440, 46441, 46450
216.....44132
223.....44133
224.....44133
600 .....45444, 45445, 45697
648 .....44139, 44792, 45447
660.....45952
679.....44794
697.....45445

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 15, 2002

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Oranges, grapefruit, tangerines, and tangelos grown in—

Florida; published 6-14-02

Potatoes (Irish) grown in —

Colorado; published 6-14-02

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:

State operating permits programs—

Indiana; published 5-16-02

Air quality implementation plans; approval and promulgation; various States:

California; published 5-14-02

Illinois; published 5-15-02

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Long-term telephone number portability; memorandum opinion, etc.; published 6-13-02

Ultra-wideband transmission systems; marketing and operation of new products; published 5-16-02

Ultra-wideband transmisson systems; marketing and operation of new products

Correction; published 6-10-02

Organization, functions, and authority delegations:

Media Relations Office; published 7-12-02

Practice and procedure:

Communications Act of 1934; implementation—

Private land mobile channels in the 800 MHz band; statutory auction authority and licensing for use in commerical systems; published 5-16-02

Radio stations; table of assignments:

Mississippi; published 6-11-02

FEDERAL MARITIME COMMISSION

Filing and service fees; revision; published 6-11-02

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Public and Indian housing:

Native Hawaiian Housing Block Grant and Loan Guarantees for Native Hawaiian Housing Programs; published 6-13-02

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Chiricahua leopard frog; published 6-13-02

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

New Mexico; published 7-15-02

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; published 7-15-02

PERSONNEL MANAGEMENT OFFICE

Pay administration:

Dual compensation reductions for military retirees; repeal; published 6-14-02

POSTAL SERVICE

Postage meters:

License holders; information release procedures; published 7-15-02

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Florida; published 6-13-02

Ports and waterways safety:

Lake Erie—

Toledo Captain of Port Zone; security zones; published 7-15-02

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules, etc.:

Noise operating limits; Stage 3 requirements for 48 contiguous United States and District of Columbia; published 7-15-02

Airworthiness directives:

Eurocopter Deutschland GmbH; published 6-28-02

Raytheon; published 6-6-02

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Tobacco inspection:

Mandatory grading; producer referenda; comments due by 7-22-02; published 5-23-02 [FR 02-12892]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Cooked meat and meat products imported from regions where rinderpest or foot-and-mouth disease exists; comments due by 7-22-02; published 5-22-02 [FR 02-12809]

Hawaiian and territorial quarantine notices:

Fruits and vegetables from Hawaii; comments due by 7-22-02; published 5-22-02 [FR 02-12810]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic coastal fisheries cooperative management—

Horseshoe crabs; comments due by 7-24-02; published 7-9-02 [FR 02-17044]

Atlantic highly migratory species—

Atlantic bluefin tuna; comments due by 7-24-02; published 6-27-02 [FR 02-16264]

Magunuson-Stevens Act provisions—

Domestic fisheries; exempted fishing permits; comments due by 7-25-02; published 7-10-02 [FR 02-17332]

Domestic fisheries; general provisions; comments due by 7-24-02; published 7-9-02 [FR 02-17155]

Northeastern United States fisheries—

Atlantic deep-sea red crab; comments due by 7-23-02; published 6-20-02 [FR 02-15595]

West Coast States and Western Pacific fisheries—

Coastal pelagic species; comments due by 7-26-02; published 7-11-02 [FR 02-17463]

Sablefish; comments due by 7-24-02; published 6-24-02 [FR 02-15884]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Arizona; comments due by 7-26-02; published 6-26-02 [FR 02-16104]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Arizona; comments due by 7-26-02; published 6-26-02 [FR 02-16105]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Arizona; comments due by 7-26-02; published 6-26-02 [FR 02-16143]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Arizona; comments due by 7-26-02; published 6-26-02 [FR 02-16144]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 7-24-02; published 6-24-02 [FR 02-15723]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and

significant reduction; comments due by 7-22-02; published 4-23-02 [FR 02-09529]

Income taxes and procedure and administration:
Electronic tax filing; cross-reference; comments due by 7-23-02; published 4-24-02 [FR 02-09820]

Income taxes:
Stock or securities in acquisition; recognition of gain on distributions; comments due by 7-25-02; published 4-26-02 [FR 02-09818]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 327/P.L. 107–198
Small Business Paperwork Relief Act of 2002 (June 28, 2002; 116 Stat. 729)

S. 2578/P.L. 107–199
To amend title 31 of the United States Code to increase the public debt limit. (June 28, 2002; 116 Stat. 734)

Last List June 26, 2002

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–048–00001–1)	9.00	Jan. 1, 2002
3 (1997 Compilation and Parts 100 and 101)	(869–048–00002–0)	59.00	[1] Jan. 1, 2002
4	(869–048–00003–8)	9.00	[4] Jan. 1, 2002
5 Parts:			
1–699	(869–048–00004–6)	57.00	Jan. 1, 2002
700–1199	(869–048–00005–4)	47.00	Jan. 1, 2002
1200–End, 6 (6 Reserved)	(869–048–00006–2)	58.00	Jan. 1, 2002
7 Parts:			
1–26	(869–048–00001–1)	41.00	Jan. 1, 2002
27–52	(869–048–00008–9)	47.00	Jan. 1, 2002
53–209	(869–048–00009–7)	36.00	Jan. 1, 2002
210–299	(869–048–00010–1)	59.00	Jan. 1, 2002
300–399	(869–048–00011–9)	42.00	Jan. 1, 2002
400–699	(869–048–00012–7)	57.00	Jan. 1, 2002
700–899	(869–048–00013–5)	54.00	Jan. 1, 2002
900–999	(869–048–00014–3)	58.00	Jan. 1, 2002
1000–1199	(869–048–00015–1)	25.00	Jan. 1, 2002
1200–1599	(869–048–00016–0)	58.00	Jan. 1, 2002
1600–1899	(869–048–00017–8)	61.00	Jan. 1, 2002
1900–1939	(869–048–00018–6)	29.00	Jan. 1, 2002
1940–1949	(869–048–00019–4)	53.00	Jan. 1, 2002
1950–1999	(869–048–00020–8)	47.00	Jan. 1, 2002
2000–End	(869–048–00021–6)	46.00	Jan. 1, 2002
8	(869–048–00022–4)	58.00	Jan. 1, 2002
9 Parts:			
1–199	(869–048–00023–2)	58.00	Jan. 1, 2002
200–End	(869–048–00024–1)	56.00	Jan. 1, 2002
10 Parts:			
1–50	(869–048–00025–4)	58.00	Jan. 1, 2002
51–199	(869–048–00026–7)	56.00	Jan. 1, 2002
200–499	(869–048–00027–5)	44.00	Jan. 1, 2002
500–End	(869–048–00028–3)	58.00	Jan. 1, 2002
11	(869–048–00029–1)	34.00	Jan. 1, 2002
12 Parts:			
1–199	(869–048–00030–5)	30.00	Jan. 1, 2002
200–219	(869–048–00031–3)	36.00	Jan. 1, 2002
220–299	(869–048–00032–1)	58.00	Jan. 1, 2002
300–499	(869–048–00033–0)	45.00	Jan. 1, 2002
500–599	(869–048–00034–8)	42.00	Jan. 1, 2002
600–End	(869–048–00035–6)	61.00	Jan. 1, 2002
13	(869–048–00036–4)	47.00	Jan. 1, 2002
14 Parts:			
1–59	(869–048–00037–2)	60.00	Jan. 1, 2002
60–139	(869–048–00038–1)	58.00	Jan. 1, 2002
140–199	(869–048–00039–9)	29.00	Jan. 1, 2002
200–1199	(869–048–00040–2)	47.00	Jan. 1, 2002
1200–End	(869–048–00041–1)	41.00	Jan. 1, 2002
15 Parts:			
0–299	(869–048–00042–9)	37.00	Jan. 1, 2002
300–799	(869–048–00043–7)	58.00	Jan. 1, 2002
800–End	(869–048–00044–5)	40.00	Jan. 1, 2002
16 Parts:			
0–999	(869–048–00045–3)	47.00	Jan. 1, 2002
1000–End	(869–048–00046–1)	57.00	Jan. 1, 2002
17 Parts:			
1–199	(869–048–00048–8)	47.00	Apr. 1, 2002
200–239	(869–048–00049–6)	55.00	Apr. 1, 2002
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–048–00051–8)	59.00	Apr. 1, 2002
400–End	(869–048–00052–6)	24.00	Apr. 1, 2002
19 Parts:			
1–140	(869–048–00053–4)	57.00	Apr. 1, 2002
141–199	(869–048–00054–2)	56.00	Apr. 1, 2002
200–End	(869–048–00055–1)	29.00	Apr. 1, 2002
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–048–00059–3)	39.00	Apr. 1, 2002
100–169	(869–048–00060–7)	46.00	Apr. 1, 2002
170–199	(869–048–00061–5)	47.00	Apr. 1, 2002
*200–299	(869–048–00062–3)	16.00	Apr. 1, 2002
300–499	(869–048–00063–1)	29.00	Apr. 1, 2002
500–599	(869–048–00064–0)	46.00	Apr. 1, 2002
600–799	(869–048–00065–8)	16.00	Apr. 1, 2002
*800–1299	(869–048–00066–6)	56.00	Apr. 1, 2002
*1300–End	(869–048–00067–4)	22.00	Apr. 1, 2002
22 Parts:			
*1–299	(869–048–00068–2)	59.00	Apr. 1, 2002
300–End	(869–048–00069–1)	43.00	Apr. 1, 2002
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–048–00071–2)	57.00	Apr. 1, 2002
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–048–00073–9)	29.00	Apr. 1, 2002
700–1699	(869–048–00074–7)	58.00	Apr. 1, 2002
1700–End	(869–048–00075–5)	29.00	Apr. 1, 2002
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–048–00077–1)	45.00	Apr. 1, 2002
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–048–00079–8)	55.00	Apr. 1, 2002
*§§ 1.301–1.400	(869–048–00080–1)	44.00	Apr. 1, 2002
§§ 1.401–1.440	(869–044–00081–4)	58.00	Apr. 1, 2001
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
*§§ 1.641–1.850	(869–048–00084–4)	57.00	Apr. 1, 2002
§§ 1.851–1.907	(869–048–00085–2)	57.00	Apr. 1, 2002
§§ 1.908–1.1000	(869–048–00086–1)	56.00	Apr. 1, 2002
*§§ 1.1001–1.1400	(869–048–00087–9)	58.00	Apr. 1, 2002
*§§ 1.1401–End	(869–048–00088–7)	61.00	Apr. 1, 2002
*2–29	(869–048–00089–5)	57.00	Apr. 1, 2002
30–39	(869–048–00090–9)	39.00	Apr. 1, 2002
40–49	(869–048–00091–7)	26.00	Apr. 1, 2002
50–299	(869–048–00092–5)	38.00	Apr. 1, 2002
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5] Apr. 1, 2001
600–End	(869–048–00095–0)	16.00	Apr. 1, 2002
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
200–End	(869–048–00097–6)	13.00	Apr. 1, 2002
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–044–00166–7)	51.00	Oct. 1, 2001
400–429	(869–044–00167–5)	59.00	Oct. 1, 2001
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–044–00185–3)	55.00	Oct. 1, 2001
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–044–00193–4)	31.00	Oct. 1, 2001
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200–End	(869–044–00203–5)	21.00	Oct. 1, 2001
50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
200–599	(869–044–00205–1)	36.00	Oct. 1, 2001
600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2001 CFR set		1,195.00	2001
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Complete set (one-time mailing)		247.00	1999

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.