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Presidential Documents

Title 3—

The President

Proclamation 7583 of August 16, 2002

National Health Center Week, 2002

By the President of the United States of America

A Proclamation

America's community health centers are a vital part of our healthcare safety net, providing primary care services to uninsured, low-income families and individuals, regardless of their ability to pay.

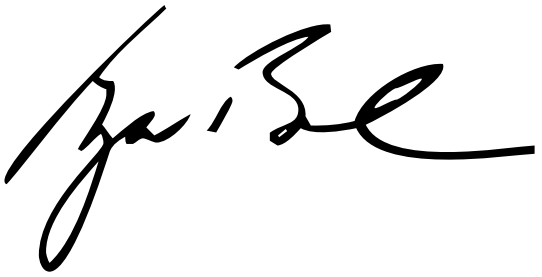
Community health centers ensure that all citizens have access to medical treatment and preventative care. Each year, community, migrant, public housing, and homeless health centers serve more than 12 million citizens at over 3,300 delivery sites throughout urban and rural communities in all 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. These centers care for 1 of every 5 low-income children and 1 of every 12 rural residents. By working together with schools, businesses, churches, community organizations, foundations, and State and local governments, these health centers strive to meet the special needs and priorities of communities and to improve the health and well-being of countless families and individuals.

Health centers offer responsive and cost-effective health care that includes comprehensive primary and preventive services; prenatal and postpartum care; patient education, case management, and outreach; translation and other support services. My Administration is committed to increasing Federal support of healthcare centers. Through my Community and Migrant Health Centers Initiative we are working to double the number of patients served in these centers, and create 1,200 new and expanded health center sites over 5 years.

With the observance of National Health Center Week, we recognize the important role and the invaluable contributions of America's health centers, their staff, board members, and all those responsible for their success. During National Health Center week, I join in encouraging all Americans to celebrate the importance of health centers to our communities by participating in health fairs and screenings, blood drives, immunizations, and open house events.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 18 through 24, 2002, as National Health Center Week. I encourage all Americans to observe this week with appropriate activities and programs in order to raise their awareness of the importance and variety of services provided by America's health centers.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of August, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



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Rules and Regulations

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

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

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T]

Credit by Brokers and Dealers; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

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

EFFECTIVE DATE: September 1, 2002.

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

SUPPLEMENTARY INFORMATION: Listed below is a complete edition of the Board's Foreign List. The Foreign List was last published on February 22, 2002 (67 FR 8182), and became effective March 1, 2002. There are no additions to or deletions from the Foreign List.

The Foreign List is composed of foreign equity securities that qualify as margin securities under Regulation T by meeting the requirements of § 220.11(c) and (d). Additional foreign securities qualify as margin securities if they are deemed by the Securities and Exchange Commission (SEC) to have a ''ready market'' under SEC Rule 15c3–1 (17 CFR 240.15c3–1) or a ''no-action'' position issued thereunder. This includes all foreign stocks in the FTSE World Index Series.

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

Public Comment and Deferred Effective Date

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

List of Subjects in 12 CFR Part 220

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

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

Japan

Akita Bank, Ltd.
¥50 par common
Aomori Bank, Ltd.
¥50 par common
Asatsu-DK Inc.
¥50 par common
Bandai Co., Ltd.
¥50 par common
Bank of Nagoya, Ltd.
¥50 par common
Chudenko Corp.
¥50 par common
Chugoku Bank, Ltd.
¥50 par common
Clarion Co., Ltd.
¥50 par common
Daihatsu Motor Co., Ltd.
¥50 par common
Dainippon Screen Mfg. Co., Ltd.
¥50 par common
Denki Kagaku Kogyo
¥50 par common
Eighteenth Bank, Ltd.
¥50 par common
Futaba Corp.
¥50 par common
Futaba Industrial Co., Ltd.
¥50 par common
Higo Bank, Ltd.
¥50 par common
Hitachi Software Engineering Co., Ltd.
¥50 par common
Hokkoku Bank, Ltd.
¥50 par common
Hokuetsu Paper Mills, Ltd.
¥50 par common
Iyo Bank, Ltd.
¥50 par common
Japan Airport Terminal Co., Ltd.
¥50 par common
Juroku Bank, Ltd.
¥50 par common
Kagoshima Bank, Ltd.
¥50 par common
Kamigumi Co., Ltd.
¥50 par common
Katokichi Co., Ltd.
¥50 par common
Keisei Electric Railway Co., Ltd.
¥50 par common
Keiyo Bank, Ltd.
¥50 par common
Komori Corp.
¥50 par common
Konami Co., Ltd.
¥50 par common
Kyowa Exeo Corp.
¥50 par common
Matsushita Seiko Co., Ltd.
¥50 par common
Michinoku Bank, Ltd.
¥50 par common
Musashino Bank, Ltd.
¥500 par common
Namco, Ltd.
¥50 par common
Nichicon Corp.
¥50 par common
Nihon Unisys, Ltd.
¥50 par common
Nippon Comsys Corp.
¥50 par common

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

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), August 15, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–21188 Filed 8–19–02; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE153, Special Condition 23–123–SC]

Special Conditions; Meridian PA–46–500TP; Protection of Systems From High Intensity Radiated Fields (HIRF): Corrections

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; corrections.

SUMMARY: The FAA published a document in the **Federal Register** on September 13, 1999, concerning final special conditions on the Meridian PA–46–400TP airplane. There was an inadvertent error in the special condition number in the document and there was an incorrect reference in the model number of the airplane. This document contains a correction to the special condition number for the final special conditions and to the model number reference.

EFFECTIVE DATE: The effective date of these corrected special conditions is August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123.

SUPPLEMENTARY INFORMATION:

Need for Correction

The FAA published a document on September 13, 1999 (64 FR 49365) that issued final special conditions. In the document heading, a special condition number appears that had already been issued for another set of special conditions with a different docket number. This document corrects that error. The document also reference and incorrect model number. PA 46–400TP, so this document also corrects that error.

Correction of Publication

Accordingly, the special condition number, which appears in the heading of Docket No. CD153, is revised from 23–096–SC to 23–123–SC. Also, wherever the reference to PA 46–400TP appears, the reference is revised to read PA 46–500TP.

Issued in Kansas City, Missouri on August 7, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21177 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–1]

Establishment of Class D and Class E4 Airspace; St. Augustine, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D and Class E4 airspace at St. Augustine, FL. A Federal contract tower with a weather reporting system has been constructed at the St. Augustine Airport. Therefore, the airport meets the criteria for establishment of Class D and Class E4 airspace. Class D surface area airspace and Class E4 airspace designated as an extension to Class D airspace is required when the control tower is open to contain existing Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at the airport. This action establishes Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the St. Augustine Airport and Class E4 airspace extensions that are 4.8 miles wide and extend 7 miles northwest and southeast of the airport.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On January 22, 2002, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class D and Class E4 airspace at St. Augustine, FL, (67 FR 2835) to provide adequate controlled airspace to contain IFR operations at the St. Augustine Airport. Class D airspace designations for airspace areas extending upward from the surface of the earth and Class E4 airspace areas designated as an extension to a Class D surface area are published in Paragraphs 5000 and 6004 respectively, of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E4 designations listed in this document

will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class D and Class E4 airspace at St. Augustine, FL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D St. Augustine, FL [NEW]

St. Augustine Airport, FL
(Lat. 29°57′33″ N, long. 81°20′23″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of St. Augustine Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D Airspace Area.

* * * * *

ASO FL E4 St. Augustine, FL [NEW]

St. Augustine Airport, FL
(Lat. 29°57′33″ N, long. 81°20′23″ W)
St. Augustine VOR/DME FL
(Lat. 29°57′29″ N, long. 81°20′18″ W)

That airspace extending upward from the surface within 2.4 miles each side of the St. Augustine VOR/DME 127° and 313° radials, extending from the 4-mile radius to 7 miles northwest and southeast of the VOR/DME. This Class E4 airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on August 13, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–21135 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–9]

Amendment to Class E Airspace; Gordon, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace at Gordon, NE. The FAA has developed an Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 04, ORIGINAL Standard Instrument Approach Procedure (SIAP) to serve Gordon Municipal Airport, Gordon, NE. Additional controlled airspace extending upward from 700 feed Above Ground Level (AGL) is needed to accommodate that SIAP.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAP and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, November 28, 2002.

Comments for inclusion in the Rules Docket must be received on or before September 30, 2002.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 02–ACE–9, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA has developed RNAV (GPS) RWY 04, ORIGINAL SIAP to serve Gordon Municipal Airport, Gordon, NE. The amendment to Class E airspace at Gordon, NE will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAP within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all

flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and conforming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Comments wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 02–ACE–9.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE NE E5 Gordon, NE [REVISED]

Gordon Municipal Airport, NE

(Lat. 42°48′22″ N., long. 102°10′31″ W.)

Gordon NDB

(Lat. 42°48′04″ N., long. 102°10′46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Gordon Municipal Airport and within 2.6 miles each side of the 045° bearing from the Gordon NDB extending from the 6.6-mile radius to 7.4 miles north of the airport, and within 2 miles each side of the 229° bearing from the airport extending from the 6.6-mile radius to 10.1 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on August 5, 2002.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 02–21138 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9007]

RIN 1545–AW87

Compromise of Tax Liabilities; Corrections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on Tuesday, July 23, 2002 (67 FR 48025) relating to the compromise of internal revenue taxes.

DATES: This correction is effective July 23, 2002.

FOR FURTHER INFORMATION CONTACT: Frederick W. Schindler (202) 622–3620 (not a toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 7122 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9007), which is the subject of FR. Doc. 02–18454, is corrected as follows:

§ 301.7122–1 [Amended]

1. On page 48030, column 3, 301.7122–1(d)(2), line 7, the language ''involving such liability to the Attorney General'' is corrected to read ''involving such liability to the Department of Justice''.

Cynthia E. Grigsby,

Chief, Regulations Unit Associate Chief Counsel (Income Tax and Accounting).

[FR Doc. 02–21204 Filed 8–19–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37–132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding an exemption rule for the system of records F051 AF JA I, entitled 'Commander Directed Inquiries'. The (k)(2) exemption will increase the value of the system of records for law enforcement purposes.

EFFECTIVE DATE: August 6, 2002.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043 or DSN 329–4043.

SUPPLEMENTARY INFORMATION: The proposed rule was published on June 4, 2002, at 67 FR 38450. No comments were received from the public; therefore, the rule is being adopted as final.

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 806b

Privacy.

Accordingly, 32 CFR part 806b is amended as follows:

PART 806b—[AMENDED]

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Appendix C to part 806b is amended by adding paragraph (b)(22) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Appendix C to Part 806b—General and specific exemptions

* * * * *

(b) Specific exemptions. * * *

(22) System identifier and name: F051 AF JA I, Commander Directed Inquiries.

(i) Exemption: (1) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. (2) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) **Authority:** 5 U.S.C. 552a(k)(2).

(iii) Reasons: (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to

require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

Dated: August 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–21048 Filed 8–19–02; 8:45 am]

BILLING CODE 5001–08–P

POSTAL SERVICE

39 CFR Part 111

Optional Increase in Minimum Number of Pieces Required for Preparation of 5-Digit Packages of Standard Mail Flats

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth *Domestic Mail Manual* (DMM) standards adopted by the Postal Service to allow mailers to select a number from 10 to 17 as the minimum number of pieces at which 5-digit packages may be prepared in a Standard Mail job of flat-size pieces (DMM C050.3.0) that are not more than ¾-inch thick. Currently mailers must prepare 5-digit packages whenever there are 10 or more pieces to a 5-digit ZIP Code destination.

EFFECTIVE DATE: September 5, 2002.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller (703) 292–3747; or Patricia Bennett (703) 292–3639.

SUPPLEMENTARY INFORMATION: Under these new standards, mailers can select a minimum number of pieces greater than 10 at which 5-digit packages of automation rate and Presorted rate Standard Mail flat-size pieces not more than ¾-inch thick, including co-packaged pieces (DMM M950), are prepared within a mailing job. Mailers must use a consistent minimum for 5-digit packages throughout a mailing job. The minimum may not be set higher than 17 pieces, which means that whenever there are 17 or more pieces to a 5-digit ZIP Code destination, those pieces must be prepared in 5-digit packages. The preparation standards for other package levels and for containers are unchanged, and mailers must continue to prepare 3-digit and area distribution center (ADC) packages whenever there are 10 or more pieces to those destinations. Pieces now prepared in 5-digit packages using the current 10-piece minimum will move either to an existing 3-digit package or be consolidated into fewer new 3-digit packages when a higher minimum of 11 to 17 pieces is selected. In either case, the overall number of packages prepared by mailers and processed by the Postal Service should decrease. For example, a 4-ounce catalog prepared in four 5-digit packages for the same 3-digit destination that each contain 10 pieces could be combined in one new 3-digit package (that weighs less than 20 pounds) under the new standards if the minimum 5-digit package size is set at 17.

Any movement of pieces from 5-digit packages to 3-digit packages that results from this new option will not impact postage paid by mailers or Postal Service revenues because Standard Mail flats are eligible for the 3/5 presort rates whether prepared in 5-digit or 3-digit packages. Pieces moving from small 5-digit packages to larger 3-digit packages would not be subject to any additional postage, and mailers are encouraged to set their 5-digit package minimum at 17 pieces to prepare fewer packages. However, anyone wanting to use the current 10-piece package minimum, or to set the minimum between 10 and 17, could do so. Mailers are reminded that the 3/5 Presorted rate for Standard Mail flats is applicable to 5-digit or 3-digit packages prepared in 5-digit or 3-digit sacks containing a minimum of 125 pieces or 15 pounds of pieces or placed on any level pallet. Automation rates are always based on the package presort level and the 3/5 automation rate applies to any pieces in 5-digit and 3-digit packages. It is possible that the selection of a higher 5-digit package minimum may improve the presort level of some pieces that would otherwise fall to a lower package level after all 5-digit packages are prepared. For example, after all 5-digit packages are prepared using the current 10-piece package minimum, less than 10 pieces may remain for the 3-digit destination and the remaining pieces would be prepared in an ADC or mixed ADC package and be subject to the basic rate. When combined with pieces from one or more small 5-digit packages to the same 3-digit destination, these pieces could move to a 3-digit package and be subject to the 3/5 rates.

Because of the operational efficiencies that are expected for mailers and the Postal Service due to the creation and handling of fewer flats packages as a result of this new optional preparation, the Postal Service finds no need to solicit comments or to delay implementation.

Background

Exploratory modeling of piece, package, and container handling costs indicates that the appropriate minimum for 5-digit packages of Standard Mail flat-size pieces is clearly above 10 and could be increased to 17 pieces for flats likely to be processed on the automated flat sorting machine (AFSM) 100. The modeling, conducted by the Postal Service in conjunction with its product redesign efforts, indicates that changing the minimum package size for 5-digit packages is not likely to increase the Postal Service's combined package and piece handling costs. It also suggests that the net gain from reduced package handling using the 17-piece minimum will be greatest for pieces that weigh less than 6 ounces and somewhat less for heavier pieces. Because of the 20-pound maximum package weight (DMM M020.1.8), the elimination of 5-digit packages of heavier pieces will result in the creation of an almost equal number of 3-digit packages and the costs for additional piece handlings will not be offset by reduced package handling costs. As with any change of this type, the impact on a specific mailing will vary based on mail characteristics such as piece weight and presort density. However, it is expected that this optional change should help to reduce overall Postal Service processing costs as well as mailer production costs, and that it should not have any negative impact on service for pieces that move from 5-digit to 3-digit packages.

The expected benefits of this change are based, in large part, on productivities and piece processing efficiencies of the AFSM 100, which can process pieces up to ¾-inch thick. Pieces greater than ¾-inch thick may be processed on the FSM 1000, on the small parcel and bundle sorter (SPBS), or manually, all at lower productivities than if processed on the AFSM 100.

Furthermore, very little incoming secondary processing of pieces to carrier routes occurs on FSM 1000s, and it is more desirable to have mail prepared in 5-digit packages that can be sent directly to the delivery office for distribution to carrier routes. For this reason, the optional higher minimums are limited to flat-size pieces likely to receive AFSM 100 processing, and mailers must continue to use the current 10-piece minimum when preparing 5-digit packages of automation rate flat-size pieces greater than 3/4-inch thick.

Two important goals of product redesign are to align rates and preparation requirements with customer needs and capabilities, and to provide products that reduce combined Postal Service and customer costs and fit within the future postal operations environment. The Postal Service believes there are major opportunities to improve flats processing efficiency and that, in the mid-term (within approximately 2 to 5 years), these opportunities can be fully captured only by restructuring rate categories and the corresponding preparation requirements for flats. Although approximately 40 percent of Postal Service mail processing costs for Standard Mail flats are in package and container handling, there are currently few rate incentives to induce customers to package and containerize their mail in ways that reduce Postal Service costs. Beyond the minimums and maximums for packages and containers, there is very little guidance or flexibility for preparing packages and containers. In contrast, to reduce Postal Service piece handling costs, customers are offered a detailed structure of rate incentives for presorting, barcoding, and dropshipping. Implementation of a flexible minimum for 5-digit packages of Standard Mail flats is an attempt to provide guidance for preparing more efficient packages.

The Postal Service discussed the potential for implementing this change with software vendors and major flats printers and mailers at the Mailers Technical Advisory Committee (MTAC) Presort Optimization Work Group meeting in May 2002. Attendees were receptive and indicated that software revisions necessary to implement this preparation change would not be difficult. However, they also noted that the Postal Service would need to act quickly to formalize the changes and inform the mailing industry of their value in order to obtain the greatest benefit for the 2002 fall mailing season, when the Postal Service normally experiences a Standard Mail volume peak. If mailers take advantage of this option quickly, the associated reduction in the volume of packages of flats could help the Postal Service avoid more costly manual processing that may occur during volume peaks.

Although mailers who want to select a higher 5-digit package minimum than 10 pieces will not be required to use Presort Accuracy Validation and Evaluation (PAVE)-certified software, PAVE tests are available for presort software vendors who will support this option.

Based on the expected efficiencies resulting from this change, the Postal Service plans to raise the minimum quantity for preparation of 5-digit packages of Standard Mail AFSM 100 flats from the current 10 pieces in conjunction with the next omnibus rate case.

The Postal Service is interested in receiving feedback about the volume shift in specific mailings from mailers who change their minimum package size. The following information may be sent to Cheryl Beller, Product Redesign, U.S. Postal Service, Room 4039, 1735 N Lynn St, Arlington, VA 22209–6360 (E-mail address: *cbeller1@email.usps.gov)*: Total number of pieces in mailing; mailpiece weight; number of pieces prepared in 5-digit packages and the number of 5-digit packages; number of pieces prepared in 3-digit packages and the number of 3-digit packages; and the maximum package parameter (weight or number of pieces). If the maximum package size setting reflects a total package weight lower than 20 pounds, please indicate the maximum package height that correlates to the maximum package size. The number of pieces and number of packages (5-digit and 3-digit) should be shown using both the current 10-piece minimum and the new minimum selected for presort (from 11 and 17).

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the *Domestic Mail Manual* (DMM), which is incorporated by reference in the Code of Federal Regulations (CFR). See 39 CFR part 111.

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the *Domestic Mail Manual* (DMM) as follows:

Domestic Mail Manual (DMM)

* * * * *

M Mail Preparation and Sortation

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

* * * * *

4.0 FLAT-SIZE PIECES AND IRREGULAR PARCELS

* * * * *

4.3 Package Preparation

Package size, preparation sequence, and labeling:

[Revise item a to read as follows:]

a. 5-digit:

(1) Flats: required with 17 pieces, optional with 10 to 16 pieces (use of a consistent minimum is required for a mailing job); red label D or optional endorsement line (OEL).

(2) Irregular Parcels: required (10-piece minimum); red label D or optional endorsement line (OEL).

* * * * *

M800 All Automation Mail

* * * * *

M820 Flat-Size Mail

* * * * *

5.0 STANDARD MAIL

5.1 Package Preparation

Package size, preparation sequence, and labeling:

[Revise item a to read as follows:]

a. 5-digit:

(1) Packages containing pieces not more than 3/4-inch thick only: required with 17 pieces, optional with 10 to 16 pieces (use of a consistent minimum is required for a mailing job); red label D or optional endorsement line (OEL).

(2) Packages containing pieces with a thickness greater than 3/4-inch: required with 10 pieces; red label D or optional endorsement line (OEL).

* * * * *

M900 Advanced Preparation Options for Flats

* * * * *

M950 Co-Packaging Automation Rate and Presorted Rate Pieces

* * * * *

3.0 STANDARD MAIL

* * * * *

3.2 Package Preparation

Package size, preparation sequence, and labeling:

[Revise item a to read as follows:]

a. 5-digit:

(1) Packages containing pieces not more than ¾-inch thick only: required with 17 pieces, optional with 10 to 16 pieces (use of a consistent minimum is required for a mailing job); red label D or optional endorsement line (OEL).

(2) Packages containing pieces with a thickness greater than ¾-inch: required with 10 pieces; red label D or optional endorsement line (OEL).

* * * * *

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–21189 Filed 8–19–02; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–7262–3]

Final Effective Date Modification for the Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking; delay of effective date.

SUMMARY: On June 24, 2002, EPA published a final rule entitled ''Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area'' (67 FR 42688). The effective date for the final rule was August 23, 2002. At the same time, EPA also published its proposal to delay the effective date of the determination and reclassification until October 4, 2002. The 30-day comment period on our June 24, 2002, proposal to extend the effective date has ended and EPA received twenty-seven comment letters of which twenty-six comment letters expressed support for the delayed effective date. Today EPA is finalizing the modification of the effective date of our June 24, 2002, rule from August 23, 2002, until October 4, 2002. Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

DATES: As of August 20, 2002, the effective date of the final rule amending 40 CFR part 81 published at 67 FR 42688, June 24, 2002, is delayed for six weeks, from August 23, 2002, to a new effective date of October 4, 2002. The amendment to 40 CFR part 81 in this final rule is effective October 4, 2002.

ADDRESSES: Copies of documents relevant to this action area available for public inspection during normal business hours at the Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733; and the Louisiana Department of Environmental Quality (LDEQ), 7920 Bluebonnet Boulevard, Baton Rouge, Louisiana 70884. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Maria L. Martinez, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–2230.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. Throughout this document, whenever ''Baton Rouge Area,'' ''Baton Rouge Nonattainment Area,'' or ''Baton Rouge Ozone Nonattainment Area'' is used, we mean the area which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge in the State of Louisiana.

Background

In a Judgment entered on March 7, 2002, the United States District Court for the Middle District of Louisiana, ordered EPA to determine, by June 5, 2002, whether the Baton Rouge area had attained the applicable ozone standard under the Clean Air Act (hereinafter referred to as the CAA or Act). *Louisiana Environmental Action Network (LEAN)* v. *Whitman,* 00–879–A. The Court also ordered EPA to publish in the **Federal Register** a notice of a final action reflecting both the determination and any reclassification of the area required as a result of the determination. The Court also held that it was not acting to restrict the effective date that EPA selects for its action. See the Court's February 27, 2002, Ruling.[1] EPA published its determination on June 24, 2002, in response to the Court's order.

On June 24, 2002, EPA concurrently published its proposal to delay the effective date of the determination and reclassification from August 23, 2002, until October 4, 2002 (67 FR 42697). EPA has determined that the delay of the effective date of the determination of nonattainment and reclassification is necessary to allow regulated entities in the Baton Rouge area time to prepare for the new requirements that are applicable to severe nonattainment areas. In the June 24, 2002, proposal, EPA noted that on the effective date of the reclassification to severe, the major stationary source threshold for the Baton Rouge area will be reduced from 50 tons of emissions on an annual basis to 25 tons. Thus a number of facilities with volatile organic compounds (VOCs) or nitrogen oxide (NO_X) emission levels between 25 and 50 tons per year may become subject to major source requirements for the first time.[2] Extending the effective date of our June 24, 2002, determination to October 4, 2002, will provide adequate time for the facilities affected by the reclassification to comply with the new technical requirements. EPA has determined that sources possibly subject to these new requirements should have additional time to prepare for the impact of these requirements. EPA's decision to extend the effective date for this reason is supported by a number of commenters.

In addition, as EPA stated in its June 24, 2002, proposal, we will continue to work on completing a separate rulemaking on the issue of whether the Baton Rouge area should be granted an extension of its attainment date pursuant to EPA's ''Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas'' **Federal Register** document (64 FR 14441, March 25, 1999) (hereinafter referred to as EPA's extension policy), and remain classified as a serious nonattainment area. By taking this final action to extend the effective date for the nonattainment determination, EPA is in a position to take final action on the proposal to extend the attainment date for the Baton Rouge area before the nonattainment determination becomes effective. Section 181(b)(2)(A) of the Act

[1] For additional information on other court rulings on the issue of an effective date for such action, see, *Sierra Club* v. *Browner,* 130 F. Supp. 2d 78 (D.D.C. 2001), aff'd., 285 F. 3d 63 (D.C. Cir. 2002).

[2] See section 182(d) in conjunction with section 182(f) of the Act for the severe area major source thresholds for these pollutants.

requires that EPA determine attainment within six months of the attainment date. If the attainment date were extended, there would be a new deadline for the determination. Thus, if the attainment date were extended, EPA's obligation to determine attainment would not yet have occurred. If EPA were to extend the attainment date for the Baton Rouge area, EPA would withdraw the published nonattainment determination and the consequent reclassification, which would not yet have gone into effect.

In light of the fact that Louisiana has submitted its final SIP submissions, EPA believes that it will be able to complete rulemaking on the attainment date extension request by October 4, 2002. On August 2, 2002, EPA published its proposal to: (1) Approve the Baton Rouge area's ozone attainment demonstration and transport SIP which proposes an attainment date of November 15, 2005, (2) determine that the Baton Rouge area meets the reasonably available control measures (RACM) requirements of the Act, (3) approve the motor vehicle emission budgets associated with the attainment demonstration, (4) approve the enforceable commitments regarding MOBILE6 and to perform a mid-course review and submit a SIP revision to EPA by May 1, 2004, (5) approve an enforceable transportation control measure (TCM), (6) approve corrections to the 1990 Base Year Emissions Inventory, the 9% Rate-of-Progress Plan, and the 15% Rate-of Progress Plan and, (7) withdraw its June 24, 2002 (67 FR 42688), rulemaking determining nonattainment and reclassifying the Baton Rouge nonattainment area as a severe nonattainment area for ozone. (67 FR 50391). EPA is taking separate actions on other related revisions of the Baton Rouge SIP, including the Inspection and Maintenance Program (67 FR 44410, July 2, 2002), NO_X regulations (67 FR 30638, May 7, 2002, and 67 FR 48095, July 23, 2002), New Source Review (see 67 FR 48090, July 23, 2002), emissions reductions credit banking (see 67 FR 48083, July 23, 2002), Contingency Measures (see 67 FR 35468, May 20, 2002), and SIP revisions dealing with VOC emissions from industrial wastewater (67 FR 41840, June 20, 2002).

If, prior to the reclassification delayed effective date of October 4, 2002, EPA finalizes an extension of the attainment date for the Baton Rouge area pursuant to EPA's extension policy, then EPA would rescind its determination of nonattainment and notice of reclassification of the area and the area would retain its classification as a serious nonattainment area for ozone.

Such a course would allow the Agency to fulfill its duty to take into account upwind transport and allow an opportunity for the Baton Rouge area to qualify for an extension under the attainment date extension policy which EPA has applied in other areas affected by transport. EPA recently issued final rulemakings granting requests for attainment date extensions based on its policy in six ozone nonattainment areas: Washington, DC,[3] (66 FR 568, January 3, 2001); Greater Connecticut, (66 FR 634, January 3, 2001); Springfield, Massachusetts, (66 FR 666, January 3, 2001); and Beaumont/Port Arthur, Texas (66 FR 26913, May 15, 2001); St. Louis, Missouri (66 FR 33996, June 26, 2001).

What Comments Were Received on the Proposed Effective Date Modification for the Determination of Nonattainment and How Has EPA Responded?

EPA received letters from twenty-six commenters in support of the proposal to delay the effective date. We also received one letter opposing the delayed effective date.

Comment 1: Twenty-six commenters supported delaying the effective date of our June 24, 2002, determination to October 4, 2002.

Response 1: EPA has determined that the delay of the effective date of the determination of nonattainment and reclassification is necessary to allow regulated entities in the Baton Rouge area a period of time to prepare for the new requirements that are applicable to severe nonattainment areas.

Comment 2: A commenter contends that delaying the effective date is not necessary for the purpose of allowing facilities to prepare for new requirements applicable to severe nonattainment areas. The commenter argues that the reclassification of the area should have occurred on May 15, 2000, and that therefore regulated facilities in the Baton Rouge area have had abundant time to prepare for the new requirements.

Response 2: Contrary to the commenter's contention, it was not clear until the Court's March, 2002, Order that EPA would be required to make an attainment determination prior to concluding its review of whether the Baton Rouge area qualified for an attainment date extension. Therefore, entities affected by a reclassification did not have much notice of the new controls to which they would be subject. In EPA's May 9, 2001 (66 FR 23646) and July 25, 2001 (66 FR 38608) proposals on the Baton Rouge area, EPA proposed to finalize the nonattainment determination and reclassification notice for the Baton Rouge area only after the area had had an opportunity to qualify for an attainment date extension under the extension policy. As a result, the commenter is incorrect in its assertion that regulated entities were on notice that the area would be reclassified. The commenter has not identified any basis for questioning EPA's determination that regulated entities require additional time to prepare for the impact of the June 24, 2002, final rulemaking. See also the comments submitted in support of extending the effective date for this reason.

Comment 3: Several commenters strongly support EPA's proposal to extend the effective date of its June 24, 2002, determination on the basis that this action will allow EPA sufficient time to work on completing a separate rulemaking on the issue of whether the Baton Rouge area should be granted an extension of its attainment date pursuant to EPA's extension policy, and remain classified as a serious nonattainment area. One commenter takes issue with EPA's use of the period of the delayed effective date to allow EPA to complete consideration of Louisiana's request for an attainment date extension. The commenter asserts that the attainment date extension violates the Clean Air Act, and that a federal Court of Appeals found that EPA had violated the CAA when it extended the attainment deadline for the Washington, DC area. The commenter argues that since EPA cannot grant an attainment date extension, it cannot delay the effective date of the June 24, 2002, rule.

Response 3: On July 2, 2002, the U.S. Court of Appeals for the District of Columbia vacated EPA's approval of an attainment date extension for the Washington, D.C. ozone nonattainment area. *Sierra Club* v. *EPA,* 2002 WL 1407009 (D.C. Cir. July 2, 2002). EPA is currently evaluating this decision and considering what impact it may have on EPA's future actions concerning the Baton Rouge area. Regardless of whether EPA continues to process the attainment date extension during the period prior to the effective date of the June 24, 2002, rule, EPA has concluded that the need for regulated entities to have additional time to prepare for reclassification

[3] On July 2, 2002, the U.S. Court of Appeals for the District of Columbia vacated EPA's approval of an attainment date extension for the Washington, DC ozone nonattainment area. *Sierra Club* v. *EPA,* 2002 WL 1407009 (D.C. Cir. July 2, 2002). EPA is currently evaluating this decision and considering what impact it may have on EPA's future actions concerning the Baton Rouge area.

provides a sufficient, separate, and independent basis for extending the effective date, and therefore EPA does not rely on the activities relating to the attainment date extension in concluding that the effective date should be extended until October 4, 2002.

Comment 4: A number of commenters note that a ''bump-up'' of the Baton Rouge area from ''serious'' to ''severe'' ozone nonattainment would ignore the efforts of the Baton Rouge Ozone Task Force and the progress toward attainment already achieved by the Baton Rouge area, would result in the implementation of emissions control measures that will produce negligible air quality benefits for the cost, and would cause great harm to economic development of the area. These commenters contend that the revised State Implementation Plan (SIP) submitted to EPA by Louisiana on December 31, 2001, provides the most reasonable, effective and expeditious path to the attainment of the 1-hour ozone NAAQS.

Response 4: The substance of Louisiana's revised SIP is the subject of a separate rulemaking (67 FR 50391, August 2, 2002) and is not under consideration is this action. EPA will address comments regarding Louisiana's revised SIP, as appropriate, in that separate rulemaking. EPA has acknowledged that during the period of the delayed effective date, it will continue to work on completing a separate rulemaking on the issue of whether the Baton Rouge area should be granted an extension of its attainment date pursuant to EPA's extension policy, and remain classified as a serious nonattainment area. However, as noted above, EPA is currently evaluating the recent U.S. Court of Appeals' decision and is considering what impact it may have on EPA's future actions concerning the Baton Rouge area. Regardless of whether EPA continues to process the attainment date extension during the period prior to the effective date of the June 24, 2002, rule, EPA has concluded that the need for regulated entities to have additional time to prepare for reclassification provides a sufficient, separate, and independent basis for extending the effective date, and therefore EPA does not rely on the activities relating to the attainment date extension in concluding that the effective date should be extended until October 4, 2002.

Comment 5: A number of commenters base their support of EPA's proposal on the grounds that the delayed effective date will alleviate some of the supply impacts of the ''severe'' area requirement to use and sell reformulated gasoline (RFG) in the Baton Rouge area.

Response 5: EPA believes that the need for regulated entities to have additional time to prepare for reclassification provides a sufficient, separate, and independent basis for extending the effective date. EPA expresses no view as to other grounds of support for its action. However, we note the commenters are correct that the Clean Air Act requires mandatory participation in the federal RFG program for an ozone non-attainment area which is reclassified as severe, effective one year after the reclassification. *See* section 211(k)(10)(D) of the CAA. This requirement under the Clean Air Act is implemented as a matter of law; EPA does not have discretion to change, waive, or fail to implement this requirement.

Final Action

For the reasons stated above, and in the June 24, 2002, proposal, EPA is taking final action to extend to October 4, 2002, the effective date of the final rule entitled ''Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area; State of Louisiana'' (67 FR 42688). Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''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.''

The Agency has determined that this effective date modification would result in none of the effects identified in section 3(f) of the Executive Order. This final rulemaking merely delays the effective date of EPA's determination of nonattainment and would not impose any new requirements on any sectors of the economy, or on state, local, or tribal governments or communities.

B. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed action is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

C. Executive Order 13175

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. This rulemaking does not affect the communities of Indian tribal governments. Accordingly, the requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on

a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rulemaking to delay the effective date of EPA's nonattainment determination does not create any new requirements. Instead, this rulemaking only delays the effective date of a factual determination, and would not regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's proposal would not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), 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 the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA believes, as discussed above, that the delay of the effective date of a determination of nonattainment does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

F. 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This delay of the effective date of a nonattainment determination does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because this action does not impose any new requirements on any sectors of the economy, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this final action.

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

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 12, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.319 the table for ''Louisiana—Ozone (1-hour Standard)'' is amended by revising the entry for the Baton Rouge area to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA-OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	[1]Date	Type	[1]Date	Type
Baton Rouge Area:				
Ascension Parish	11/15/90	Nonattainment	10/04/02	Severe.
East Baton Rouge Parish	11/15/90	Nonattainment	10/04/02	Severe.
Iberville Parish	11/15/90	Nonattainment	10/04/02	Severe.
Livingston Parish	11/15/90	Nonattainment	10/04/02	Severe.
West Baton Rouge Parish	11/15/90	Nonattainment	10/04/02	Severe.
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 02–21195 Filed 8–19–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7262–6]

Florida: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Florida's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on October 21, 2002, unless EPA receives adverse written comment by September 19, 2002. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440. You can view and copy Florida's application from 8 a.m. to 5 p.m. at the following addresses: The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400 and from 8:30 a.m. to 3:45 p.m., EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, Phone number (404) 562–8190, Kathy Piselli, Librarian.

FOR FURTHER INFORMATION CONTACT: Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Florida's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Florida Final authorization to operate its hazardous waste program with the changes described in the authorization application. Florida has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Florida, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Florida subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Florida has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- do inspections, and require monitoring, tests, analyses or reports
- enforce RCRA requirements and suspend or revoke permits
- take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal**

Register withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Florida Previously Been Authorized For?

Florida initially received Final authorization on January 29, 1985, effective February 12, 1985 (50 FR 3908), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on December 1, 1987, effective March 3, 1988 (52 FR 45634), December 16, 1988, effective January 3, 1989 (53 FR 50529), December 14, 1990, effective February 12, 1991 (55 FR 51416), February 5, 1992, effective April 6, 1992 (57 FR 4371), February 7, 1992, effective April 7, 1992 (57 FR 4738), May 20, 1992, effective July 20, 1992 (57 FR 21351), November 9, 1993, effective January 10, 1994, (58 FR 59367), July 11, 1994, effective September 9, 1994 (59 FR 35266), August 16, 1994, effective October 17, 1994 (59 41979), October 26, 1994, effective December 27, 1994 (59 FR 53753), April 1, 1997, effective June 2, 1997 (62 FR 15407), August 23, 2001, effective October 22, 2001 (66 FR 44307). The authorized Florida program was incorporated by reference into the CFR on January 20, 1998, effective March 23, 1998 (63 FR 2896). Florida received corrective action authority on September 18, 2000, effective November 17, 2000 (65 FR 56256).

G. What Changes Are We Authorizing With Today's Action?

On September 10, 1998, Florida submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. Florida's revisions consist of provisions contained in the Boilers and Industrial Furnaces rule. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Florida Final authorization for the following program changes:

Description of Federal requirement	Federal Register	Analogous State authority*
Consolidated Checklist for the Burning of Hazardous Waste in Boilers and Industrial Furnaces (85, 94, 96, 98, 105, 110, 111, 114, 125, 127).	56 FR 7134, 02/21/91, 56 FR 32688, 07/17/91; 56 FR 42504, 08/27/91; 56 FR 43874, 09/05/91; 57 FR 27880, 06/22/92; 57 FR 37284, 08/18/92; 57 FR 38558, 08/25/92; 57 FR 44999, 09/30/92; 58 FR 38816, 07/21/93, and FR 58 59598, 12/09/93.	Section 403.72(1), Florida Statute (F.S.) (1993 and 1994 Supplement); Rule 62–730.030(1), Florida Administrative Code (F.A.C.), effective January 5, 1995; Section 403.72(1), F.S., (1993 and 1994 Supplement); Rule 17–730.030(1), F.A.C., effective October 14, 1992; Sections 403.72(1), 403.721(1), 403.721(2), 403.721(6), 403.721(7), 403.722, and 403.7895, F.S. (1993 and 1994 Supplement); Rules 17–730.030(1) and 17–730.181, F.A.C. effective October 14, 1992; Section 403.72(1), F.S. (1993 and 1994 Supplement); Rule 17–730.030(1), F.A.C., effective October 7, 1993 and January 5, 1995; Section 403.72(1), F.S. (1993 and 1994 Supplement); Rule 17–730.030(1), F.A.C., effective October 14, 1992; Rule 62–730.030(1), F.A.C., effective January 5, 1995; Sections 403.087(2), 403.704(16), 403.721(2), 403.722(3), and 403.722(7), F.S. (1993 and 1994 Supplement); Rule 17–730.220(3), F.A.C., effective October 14, 1992; Sections 403.704(15), 403.72(1), 403.721(1), 403.721(2), 403.721(6), 403.721(7), 403.722, and 403.7895, F.S. (1993 and 1994 Supplement); Rules 17–730.020(1), 17–730.021(1)(a), 17–730.030(1), 17–730.180(1), 17–730.180(2), and 17–730.181 F.A.C., effective October 14, 1992; Rules 62–730.020(1), 62–730.030(1),62–730.180(1), 62–730.180(2), and 62–730.181(1), F.A.C. effective January 5, 1995; Sections 403.721(1), 403.721(2), 403.721(6), 403.721(7), 403.722, and 403.7895, F.S. (1993 and 1994 Supplement); Rule 17–730.181, F.A.C., effective October 14, 1992 and October 7, 1993; Sections 403.721(1), 403.721(2), 403.721(6), 403.721(7), 403.722, and 403.7895, F.S. (1993 and 1994 Supplement); Rules 62–730.021(1)(a) and 62–730.181(1), F.A.C., effective January 5, 1995; Sections 403.721(1), 403.721(2), 403.721(6), 403.721(7), 403.722, and 403.7895, F.S. (1993 and 1994 Supplement); Rule 62–730.181(1), F.A.C., effective January 5, 1995

*On August 10, 1994, the Florida Administrative Code chapter 17–730 was renumbered as 62–730 as part of a reorganization of the Florida Department of Environmental Protection. The chapter title, ''Hazardous Waste,'' remained the same, and the contents of the Chapter did not change as a result of the renumbering.

H. Where Are the Revised State Rules Different From the Federal Rules?

This section discusses certain rules where the State is broader in scope and will not be authorized and optional rules that the state did not adopt.

The State of Florida's permitting requirements for boilers and industrial furnaces are broader in scope than the Federal requirements. Section 403.7895, F. S., requires a certification of need issued by the Governor and Cabinet sitting as the Statewide Multipurpose Hazardous Waste Facility Siting Board before a permit can be issued.

The State did not adopt 40 CFR 260.20 and does not do delisting petitions. Section 120.54(5), Florida Statutes, describes what is required in Florida for rulemaking petitions.

I. Who Handles Permits After the Authorization Takes Effect?

Florida will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the permits expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Florida is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Florida?

Florida is not authorized to carry out its hazardous waste program in Indian country within the State, which includes:

- Seminole Tribe of Florida
- Miccosukee Tribe of Indians of Florida

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying Florida's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart K for this authorization of Florida's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. 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.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective October 21, 2002.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 30, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–21190 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7262–5]

Florida: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Florida's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on October 21, 2002, unless EPA receives adverse written comment by September 19, 2002. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8440. We must receive your comments by September 19, 2002. You can view and copy Florida's application from 8 a.m. to 5 p.m. at the following addresses: The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400 and from 8:30 a.m. to 3:45 p.m., EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, Phone number (404) 562–8190, Kathy Piselli, Librarian.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Florida's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Florida Final authorization to operate its hazardous waste program with the changes described in the authorization application. Florida has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Florida, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Florida subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Florida has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Florida Previously Been Authorized for?

Florida initially received Final authorization on January 29, 1985, effective February 12, 1985 (50 FR 3908), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on December 1, 1987, effective March 3, 1988 (52 FR 45634), December 16, 1988, effective January 3, 1989 (53 FR 50529), December 14, 1990, effective February 12, 1991 (55 FR 51416), February 5, 1992, effective April 6, 1992 (57 FR 4371), February 7, 1992, effective April 7, 1992 (57 FR 4738), May 20, 1992, effective July 20, 1992 (57 FR 21351), November 9, 1993, effective January 10, 1994 (58 FR 59367), July 11, 1994, effective September 9, 1994 (59 FR 35266), August 16, 1994, effective October 17, 1994 (59 FR 41979), October 26, 1994, effective December 27, 1994 (59 FR 53753), April 1, 1997, effective June 2, 1997 (62 FR 15407), August 23, 2001, effective October 22, 2001 (66 FR 44307). The authorized Florida program was incorporated by reference into the CFR on January 20, 1998, effective March 23, 1998 (63 FR 2896). Florida received corrective action authority on September 18, 2000, effective November 18, 2000 (65 FR 56256).

G. What Changes Are We Authorizing With Today's Action?

On September 1, 1998, Florida submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. Florida's revisions consist of provisions contained in RCRA Cluster VII promulgated between July 1, 1996 to June 30, 1997. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Florida Final authorization for the following program changes:

Description of Federal requirement	Federal Register	Analogous State authority	Effective date
Checklist 151—Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners.	4/8/96, 61 FR 15566–15660 as amended. 4/8/96, 61 FR 15660–15668 4/30/96, 61 FR 19117 6/28/96, 61 FR 33680–33690 7/10/96, 61 FR 36419–36421 8/26/96, 61 FR 43924–43931 2/19/97, 62 FR 7502–7600	403.721(2), (3), & (6), 403.8055, Florida Statute (F.S.) (1999). Rule 62–730.183, Florida Administrative Code (F.A.C.)	2/4/00
Checklist 153[1]—Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D.	7/1/96, 61 FR 34252–34278 ...	403.704(15), 403.72(1), and 403.8055, F.S. (1999). Rules 62–701.300(4) and 62–730.030(1), F.A.C	2/4/00
Checklist 155—Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance.	1/14/97, 62 FR 1992–1997	403.721(2), (3), & (6), 403.8055 F.S. (1999). Rule 62–730.183, F.A.C	2/4/00
Checklist 156—Military Munitions Rule: Hazardous Waste Identification and Management; Explosives, Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties.	2/12/97, 62 FR 6622–6657	403.721(2), (3) & (4) and 403.8055. F.S. (1999). Rule 62–730.160(1), F.A.C. 403.061(7), 403.087, 403.704(15), 403.72, 403.721(2), (3), (4), & (6), 403.722, and 403.8055, F.S. (1999) Rules 62–730.021(1)(a), 62–730.030(1), 62–730.160(1), 62–730.170(1), 62–730.180(1) & (2), 62.730.181(1), and 62–730.220(3), F.A.C. 403.721(2) and 403.8055, F.S. (1999) Rule 62–730.181(1)	2/4/00
Checklist 157—Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous.	5/12/97, 62 FR 25998–26040	403.72(1), 403.8055, F.S. (1999). Rule 62–730.030(1), F.A.C. 403.721(2), (3), & (6), 403.8055, F.S. (1999) Rule 62–730.183, F.A.C	2/4/00
Checklist 158—Testing and Monitoring Activities Amendment III.	6/13/97, 62 FR 32452—32463	403.704(15), 403.721(2) & (6) and 403.8055, F.S. (1999). Rules 62–730.021(1)(a), 62–730.180(1) & (2) and Rule 62–730.181(1), F.A.C	2/4/00

Description of Federal requirement	Federal Register	Analogous State authority	Effective date
Checklist 159, Conformance with the Carbamate Vacatur	6/17/97, 62 FR 32974–32980	403.72(1) and 403.8055, F.S. (1999). Rule 62–730.030(1), F.A.C. 403.721(2), (3), & (6), 403.8055, F.S. (1999) Rule 62–730.183, F.A.C	2/4/00

[1] For discussion on where state rule differs, refer to Section H. below and the program revision application.

H. Where Are the Revised State Rules Different From the Federal Rules?

Section 261.5(f) and (g) allows for hazardous waste generated by Conditionally Exempt Small Quantity Generators (CESQG) to be managed at municipal solid waste landfills subject to part 258. The State is more stringent than the Federal requirements because Rule 62–701.300 (4) F. A. C. does not allow hazardous wastes in Subtitle D landfills in the State of Florida (Checklist 153).

I. Who Handles Permits After the Authorization Takes Effect?

Florida will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the permits expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Florida is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Florida?

Florida is not authorized to carry out its hazardous waste program in Indian country within the State, which includes:

- Seminole Tribe of Florida
- Miccosukee Tribe of Indians of Florida

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying Florida's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart K for this authorization of Florida's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective October 21, 2002.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure,

Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 30, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–21193 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment,* 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications,* 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: August 20, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC. 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 222C and adding Channel 222C0 at Omaha.

3. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by removing Channel 266A and adding Channel 266C1 at Amargosa Valley.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 268C3 and adding Channel 268A at Crystal Beach, by removing Channel 237A and adding Channel 291C3 at Floydada, by removing Channel 293A and adding Channel 293C3 at Llano, and by removing Channel 280A and adding Channel 280C2 at Wichita Falls.

5. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 239C1 and adding Channel 239C at Delta.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21060 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 76

[CS Docket No. 95–178; FCC 99–116]

Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document makes a minor correction to part 76 of the Commission's rules pertaining to definition of markets which were published in the **Federal Register** on Thursday June 24, 1999 (64 FR 33796) regarding cable television broadcast signals.

DATES: Effective August 20, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth Lewis, Media Bureau, (202) 418–2622.

SUPPLEMENTARY INFORMATION: The Order on Reconsideration and Second Report and Order, FCC 99–116, adopted May 21, 1999; released May 26, 1999, approved a final rule regarding the change of market definitions from Arbitron's areas of dominant influence to Nielsen Media Research's designated market areas for must-carry/retransmission elections. In this document we make a non-substantive rule change to correct an error in the publication of § 76.59 of the Commission's rules.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and need to be clarified.

List of Subject in 47 CFR Part 76

Cable television.

Accordingly, 47 CFR part 76 is corrected by making the following correcting amendments:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE.

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. In § 76.59, add paragraph (d) to read as follows:

§ 76.59 Modification of television markets.

* * * * *

(d) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this section.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–21121 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 67, No. 161
Tuesday, August 20, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–44–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposal would require replacement of the existing fueling float switch and conduit assemblies in the main and center fuel tanks with new, improved assemblies. This action is necessary to prevent fluid contamination inside the fueling float switch or chafing of the wiring to the in-tank conduit, which could generate an ignition source and consequent fire and explosion in the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–44–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1446; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–44–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 23, 1999, the FAA issued AD 99–05–12, amendment 39–11060 (64 FR 10213, March 3, 1999), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. That AD requires removal of the float switch and wiring and inspection of the float switch wiring in the center fuel tank to detect discrepancies, and either reinstallation of existing float switch and wiring, or replacement of the float switch and wiring with a new float switch and wiring. That action also requires installation of Teflon sleeving over the wiring of the float switch. In lieu of the above mentioned requirements, that AD requires deactivation of the float switch, accomplishment of specific fueling procedures, and installation of Caution signs. Any damaged components that were found during the inspections required by that AD were removed and returned to the airplane manufacturer for investigation. Examination of the returned components revealed that the potential for water and fuel contamination of the internal components of the float switch could provide a path for electrical current from the switch to ground. Such a path could generate an ignition source and consequent fire and explosion in the fuel tank.

Actions Since Issuance of AD 99–05–12

Since the issuance of AD 99–05–12, the manufacturer has designed a new, improved fueling float switch and conduit assemblies. The new float switch is more resistant to fuel and moisture contamination. The new electrical cable conduit for the float switch eliminates sharp bends within

the conduit and includes a liner system installed inside the conduit to provide added protection against chafing of the float switch wiring. These improvements are designed to eliminate a potential ignition source in the fuel tanks.

AD 99–05–12 did not include Model 737–600, –700, –700C, –800, and –900 series airplanes in the applicability in anticipation of the availability of redesigned components for those airplanes; therefore, those models are addressed in this proposed AD. The FAA is currently considering replacement of the fueling float switch and conduit assemblies for Model 737–100, –200, –300, –400, and –500 series airplanes, once the redesigned components are available for those models.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–28A1142, dated February 7, 2002, which describes procedures for replacement of the existing fueling float switch and conduit assemblies in the main and center fuel tanks with new, improved assemblies. Each assembly includes a new, improved float switch, and a new conduit assembly with a liner system inside the conduit. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 478 airplanes of the affected design in the worldwide fleet. The FAA estimates that 392 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 56 work hours per airplane to accomplish the proposed replacement in the 2 main fuel tanks, as specified in Work Package I, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the work hours for this proposed replacement on U.S. operators is estimated to be $1,317,120, or $3,360 per airplane.

It would take approximately 23 work hours per airplane to accomplish the proposed replacement in the center fuel tank, as specified in Work Package II, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the work hours for this proposed replacement on U.S. operators is estimated to be $540,960, or $1,380 per airplane.

The kit required to accomplish the proposed replacement in all three fuel tanks would cost approximately $5,116 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2002–NM–44–AD.

Applicability: Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin 737–28A1142, dated February 7, 2002.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fluid contamination inside the fueling float switch or chafing of the wiring to the in-tank conduit, which could generate an ignition source and consequent fire and explosion in the fuel tank, accomplish the following:

Replacement

(a) Replace the existing fueling float switch and conduit assemblies in the main and center fuel tanks with new, improved assemblies (includes a new float switch and a new conduit assembly with a liner system inside the conduit), at the applicable time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, per Work Packages I and II of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1142, dated February 7, 2002.

Note 2: Due to the lack of sleeving on the existing electrical wire installations of the center fuel tank, it is recommended that Work Package II be completed before Work Package I.

(1) For airplanes that have accumulated fewer than 5,000 total flight cycles as of the effective date of this AD: Within 2 years after the effective date of this AD.

(2) For airplanes that have accumulated 5,000 total flight cycles or more, but fewer than 10,000 total flight cycles as of the effective date of this AD: Within 1 year after the effective date of this AD.

(3) For airplanes that have accumulated 10,000 total flight cycles or more as of the effective date of this AD: Within 180 days after the effective date of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Issued in Renton, Washington, on August 13, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21053 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–14]

Proposed Establishment of Class E5 Airspace; Spruce Pine, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E5 airspace at Spruce Pine, NC. A Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Avery county Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket Nol 02–ASO–14, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to paticipate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–ASO–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Spruce Pine, NC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More above the Surface of the Earth.

* * * * *

ASO NC E5 Spruce Pine, NC [NEW]

Avery County Airport, NC, Point In Space Coordinates
(Lat. 35°55′52″ N, long. 82°00′43″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 35°55′52″ N, long. 82°00′43″ W) serving Avery County Airport.

* * * * *

Issued in College Park, Georgia, on August 14, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–21179 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–15]

Proposed Establishment of Class E5 Airspace; Sylva, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to establish Class E5 airspace at Sylva, NC. A Area Navigation (RNAV) Global Positing System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Jackson County Airport, NC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal; Aviation Administration, Docket No. 02–ASO–15, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The office docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made. ''Comments to Airspace Docket No. 02–ASO–15'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Sylva, NC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Sylva, NC [NEW]

Jackson County Airport, Point in Space Coordinates
(Lat. 35° 19′46″ N, long. 83° 13′14″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 35°19′46″ N, long. 83°13′14″ W) serving Jackson County Airport; excluding that airspace within the Knoxville TN, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on August 14, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–21180 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace No. 02–ASO–16]

Proposed Amendment of Class E5 Airspace; Andrews-Murphy, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E5 airspace at Andrews-Murphy, NC. A Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Murphy Medical Center, Murphy, NC. As a result, controlled airspace extending upward from 700 feet Above Ground level (AGL) is needed to contain the SIAP.

EFFECTIVE DATE: Comments must be received on or before September 19, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 02–ASO–16, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 035–5627.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration. P. O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economics, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–ASO–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received bore the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E5 airspace at Andrews-Murphy, NC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, there, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the forgoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Andrews-Murphy, NC [REVISED]

Andrews-Murphy Airport, NC
(Lat. 35°11′42″ N, long. 83°51′50″ W)
RUGIE Waypoint
(Lat. 35°08′57″ N, long. 83°57′29″ W)
Andrews-Murphy, NC Point In Space Coordinates
(Lat. 35°11′10″ N, long. 83°52′57″ W)
Murphy Medical Center, Point In Space Coordinates

(Lat. 35°05′10″ N, long. 83°57′54″ W)

That airspace extending upward from 700 feet or more above the surface within a 6.5-mile radius of the Andrews-Murphy Airport and within 3.2 miles each side of the 237° course from the RUGIE Waypoint, extending from the 6.5-mile radius to 8.1 miles southwest of the airport and that airspace within a 6-mile radius of the point in space (Lat. 35°11′10″ N, long. 83°52′57″ W) serving Andrews-Murphy, NC, and that airspace within a 6-mile radius of the point in space (Lat. 35°05′10″ N, long. 83°57′54″ W) serving Murphy Medical Center; excluding that airspace within the Knoxville, TN, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on August 14, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–21181 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–17]

Proposed Amendment of Class E5 Airspace; Morganton, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E5 airspace at Morganton, NC. A Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Grace Hospital, Morganton, NC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 02–ASO–17, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–ASO–17.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E5 airspace at Morganton, NC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequency and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Morganton, NC [REVISED], Morgan–Lenoir Airport, NC

(Lat. 35°49′15″ N, long. 81°36′40″ W)

Fiddlers NDB
(Lat. 35°42′37″ N, long. 81°40′17″ W)
Grace Hospital, Point In Space Coordinates
(Lat. 35°43′31″ N, long. 81°39′59″ W)

That airspace extending upward from 700 feet or more above the surface within a 9.5-mile radius of the Morganton-Lenoir Airport and within 2.5 miles each side of the 205° bearing from Fiddlers NDB, extending from the 9.5-mile radius to 7 miles southwest of the NDB and that airspace within a 6-mile radius of the point in space (lat. 35°43′31″ N, long. 81°39′59″ W) serving Grace Hospital; excluding that airspace within the Hickory, NC, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on August 14, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–21182 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7262–7]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Florida. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by September 19, 2002.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. You can examine copies of the materials submitted by Florida during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Phone number: (404) 562–8190; or The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, Phone number: (850) 488–0300.

FOR FURTHER INFORMATION CONTACT: Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: July 30, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–21191 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7262–4]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Florida. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by September 19, 2002.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. You can examine copies of the materials submitted by Florida during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, Phone number: (404) 562–8190, Kathy Piselli, Librarian; or The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, Phone number: (850) 488–0300.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: July 30, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–21194 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1938, MB Docket No. 02–223, RM–10520]

Digital Television Broadcast Service; Avalon, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Pappas Southern California License, LLC, licensee of station KAZA–TV, NTSC channel 54, Avalon, California, proposing to amend the DTV Table of Allotments to allot either DTV Channel 29 or DTV Channel 47 to Avalon, which presently does not have a paired DTV Channel allotment. With respect to Pappas' request that the Commission initiate a rule making proceeding to allot DTV Channel 29 to Avalon, the Commission has previously amended the DTV Table of Allotments to substitute DTV Channel 29c for Channel 47 at Ontario, California. Thus, DTV Channel 29 is not available for allotment to Avalon.

DATES: Comments must be filed on or before August 23, 2002, and reply comments on or before August 28, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Griffith Johnson, Jr., Esquire, Paul, Hastings, Janofsky & Walker, LLP, 1299 Pennsylvania Avenue, NW., 19th Floor, Washington, DC 20004–2400 (Counsel for Pappas Southern California License, LLC).

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–223, adopted August 5, 2002, and released August 7, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California is amended by adding Avalon, DTV channel 47.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–21211 Filed 8–16–02; 11:58 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1951; MM Docket No. 01–241; RM–10247]

Radio Broadcasting Services; Oscoda, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: Charles Crawford filed a petition for rule making proposing the allotment of Channel 243A at Oscoda, Michigan, as the community's third local FM transmission service. *See* 66 FR 49593, September 28, 2001. On November 2, 2002, petitioner filed a request for dismissal. A showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, at the request of petitioner, we will dismiss the instant proposal.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–241, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21065 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1948; MB Docket No. 02–225, RM–10517; MB Docket No. 02–226, RM–10459; MB Docket No. 02–227, RM–10467; MB Docket No. 02–228, RM–10460]

Radio Broadcasting Services; Crawfordville, GA, Groom, TX, Sonora, TX, and Spur, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes four allotments in response to four separate petitions. The Audio Division requests comments on these proposals. Ritz Radio proposes the allotment of Channel 234A at Crawfordville, Georgia, as the community's first local aural transmission service (RM–10517). Channel 234A can be allotted to Crawfordville with a site restriction 6 kilometers (3.7 miles) southwest of the community at coordinates 33–31–18 and 82–56–52. Maurice Salsa requests the allotment of Channel 223A at Groom, Texas (RM–10459). Channel 223A can be allotted to Groom with a site restriction 7.5 kilometers (4.6 miles) east of the community at coordinates 35–10–49 and 101–01–46. Katherine Pyeatt proposes the allotment of Channel 272A at Sonora, Texas (RM–10467). Channel 272A can be allotted to Sonora with a site restriction 11.2 kilometers (7 miles) south of the community at coordinates 30–28–07 and 100–36–54. Mexican concurrence will be requested for the allotment at Sonora, Texas. Maurice Salsa requests the allotment of Channel 254A at Spur, Texas (RM–10460). Channel 254A can be allotted to Spur without a site restriction at coordinates 33–28–35 and 100–51–19.

DATES: Comments must be filed on or before September 30, 2002, and reply comments on or before October 15, 2002.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Ritz Radio, Lisabeth B. Greene, 4103 Brushy Creek Road Greer, South Carolina 29650 (RM–10517); Maurice Salsa, 5615 Evergreen Valley Drive, Kingwood, Texas 77345 (RM–10459 and RM–10460); Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214 (RM–10467).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–225, MB Docket No. 02–226, MB Docket No. 02–227, and MB Docket No. 02–228, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554.

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

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

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Crawfordville, Channel 234A.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Groom, Channel 223A, by adding Channel 272A at Sonora and by adding Spur, Channel 254A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21064 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1867; MB Docket No. 02–206, RM–10469; MB Docket No. 02–207, RM–10468; MB Docket No. 02–205, RM–10470]

Radio Broadcasting Services; Big Lake, Leakey, TX, and Vici, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes three allotments in response to three separate petitions filed by Robert Fabian. The Audio Division requests comments on these proposals. The first petition proposes the allotment of Channel 249A at Vici, Oklahoma, as the community's first local aural transmission service (RM–10470). Channel 249A can be allotted to Vici without a site restriction at coordinates 36–08–59 and 99–17–54. The second petition requests the allotment of Channel 246A at Big Lake, Texas, at coordinates 31–11–33 and 101–20–53 (RM–10469). The third petition proposes the allotment of Channel 275A at Leakey, Texas, at coordinates 29–41–30 and 99–50–07. Mexican concurrence will be requested for the allotments at Big Lake and Leakey, Texas.

DATES: Comments must be filed on or before September 30, 2002, and reply comments on or before October 15, 2002.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Robert Fabian, 4 Hickory Crossing Lane, Argyle, Texas 76226.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–205, MB Docket No. 02–206, and MB Docket No. 02–207, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554.

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

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

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Vici, Channel 249A.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 246A at Big Lake and Channel 275A at Leakey.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21063 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1868, MB Docket No. 02–204, RM–10314]

Radio Broadcasting Services; Pampa, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 277C2 at Pampa, Texas. The coordinates for Channel 277C2 at Pampa are 35–42–07 and 100–50–28. There is a site restriction 21.3 kilometers (13.2 miles) northeast of the community.

DATES: Comments must be filed on or before September 30, 2002, and reply comments on or before October 15, 2002.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–204, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 277C2 at Pampa.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21062 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1869, MB Docket No. 02–203, RM–10466]

Radio Broadcasting Services; Hooks, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 231A at Hooks, Texas. The coordinates for Channel 231A at Hooks are 33–28–30 and 94–21–32. There is a site restriction 6.6 kilometers (4.1 miles) west of the community.

DATES: Comments must be filed on or before September 30, 2002, and reply comments on or before October 15, 2002.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–203, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 231A at Hooks.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21061 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1950; MM Docket No. 01–124; RM–10140]

Radio Broadcasting Services; Pearsall, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: Charles Crawford filed a petition for rule making proposing the allotment of Channel 227A at Pearsall, Texas, as the community's third local FM transmission service. *See* 66 FR 33942, June 26, 2001. On April 16, 2002, petitioner filed a request for dismissal. A showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, at the request of petitioner, we will dismiss the instant proposal.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–124, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1866, MB Docket No. 02–212, RM–10516]

Radio Broadcasting Services; Vinton, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 287A at Vinton, Louisiana, as that community's first local service. Channel 287A can be allotted to Vinton without a site restriction at coordinates 30–11–26 and 93–34–52.

DATES: Comments must be filed on or before September 30, 2002, and reply comments on or before October 15, 2002.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Charles Crawford, 4553 Bordeaux, Avenue, Dallas, Texas 75205.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, MB Docket No. 02–212, adopted July 31, 2002, and released August 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

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

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Vinton, Channel 287A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–21058 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MB Docket No. 02–230; FCC 02–231]

Digital Broadcast Copy Protection

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates a rulemaking exploring whether the FCC can and should mandate the use of a copy protection mechanism for digital broadcast television in order to facilitate the DTV transition.

DATES: Comments due October 30, 2002; reply comments are due December 13, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. For further filing information, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Susan Mort, 202–418–1043 or *smort@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (''NPRM''), FCC 02–231, adopted August 8, 2002; released August 9, 2002. The full text of the Commission's NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, Qualex International, (202) 863–2893, Portals II, Room CY–B402, 445 12th St., SW., Washington, DC 20554, or may be reviewed via Internet at *http://www.fcc.gov/mb.*

Synopsis of the Notice of Proposed Rulemaking

I. Introduction

1. The ongoing digital television (''DTV'') transition poses many unique logistical and technological challenges. The current lack of digital broadcast copy protection may be a key impediment to the transition's progress. Digital copy protection, also referred to as digital rights management, seeks to prevent the unauthorized copying and redistribution of digital media. Without adequate protection, digital media, unlike its analog counterpart, is susceptible to piracy because an unlimited number of high quality copies can be made and distributed in violation of copyright laws. In the absence of a copy protection scheme for digital broadcast television, content providers have asserted that they will not permit high quality programming to be broadcast digitally. Without such programming, consumers may be reluctant to invest in DTV receivers and equipment, thereby delaying the DTV transition.

Since 1996, an inter-industry group called the Copy Protection Technical Working Group (''CPTWG'') has served as a discussion forum for general copy protection issues. On November 28, 2001, the Broadcast Protection Discussion Subgroup (''BPDG'') was formed under the auspices of CPTWG in order to specifically address digital broadcast copy protection. According to the BPDG Final Report, more than 70 representatives of the consumer electronics, information technology, motion picture, cable and broadcast industries took part in the group. As a result of its deliberations, the BPDG recently announced a consensus on the use of a ''broadcast flag'' standard for digital broadcast copy protection. This consensus would require use of the Redistribution Control Descriptor, as set forth in ATSC Standard A/65A (the ''ATSC flag''), to mark digital broadcast programming so as to limit its improper use. Despite the consensus reached on the technical standard to be implemented, final agreement was not reached on a set of compliance and robustness requirements to be associated with use of the ATSC flag, enforcement mechanisms, or criteria for approving the use of specific protection technologies in consumer electronics devices. While the BPDG Final Report indicated that a parallel discussion group may be established by CPTWG to continue discussions in some areas where BPDG participants were unable to reach a consensus, including enforcement mechanisms, it remains unclear whether such group will serve as a forum for ongoing industry negotiations.

II. The Broadcast Flag

3. In light of the importance placed upon digital broadcast copy protection by some industry participants, and with a view towards facilitating the DTV transition, this NPRM seeks comment on whether a regulatory copy protection regime is needed within the limited sphere of digital broadcast television. As an initial matter, we seek comment on whether quality digital programming is now being withheld because of concerns over the lack of digital broadcast copy protection. In particular, we seek comment on the nature and extent of the piracy concerns expressed by content providers. If such programming is being withheld, will it continue to be withheld in the absence of a regulatory regime? To what extent would the absence of a digital broadcast copy protection scheme and the lack of high quality digital programming delay or prevent the DTV transition? Would the resulting dynamic threaten the viability of over-the-air television? What impact would this have on consumers?

4. If a digital broadcast flag or other regulatory regime is needed, we seek comment on whether the Commission should adopt rules or create some other mechanism to resolve outstanding compliance, robustness and enforcement issues. We also seek comment on whether there are any technical impediments to implementation of a digital broadcast copy protection scheme. We ask commenters to elaborate on whether the ATSC flag is the appropriate technological model to be used, or whether there are alternatives to the ATSC flag. We seek comment on the effectiveness of any such technological model in protecting digital broadcast content from improper redistribution. For example, we seek comment on the technological robustness of the ATSC flag and whether it can be upgraded or improved upon over time. If the ATSC flag is the best means of protection currently available, but it still has technical flaws, is it better to mandate the flag now and monitor it as technology develops, or to wait until a more effective means of digital broadcast copy protection is developed? Would a regulatory copy protection regime create and maintain industry incentives to continually innovate to improve the method of digital content protection?

5. With respect to the type of Commission regulations that would be appropriate in the digital broadcast copy protection area, we seek comment on whether a government mandate on the transmission side is needed. In other words, we seek comment on whether broadcasters and content providers should be required to embed the ATSC flag or another type of content control mark within digital broadcast programming, or whether they have sufficient incentive to protect such programming such that a government mandate is unnecessary.

6. On the reception side, we seek comment on whether the Commission should mandate that consumer electronics devices recognize and give effect to the ATSC flag or another type of content control mark. If so, we seek comment on whether this mandate should include devices other than DTV broadcast receivers and what the resulting impact would be on consumers. More specifically, the BPDG Final Report anticipates that digital broadcast copy protection will begin at the point of demodulation. We seek comment on whether this is an appropriate point for digital broadcast copy protection to begin in consumer electronics devices. We also seek comment on whether and how

downstream devices would be required to protect the content. In addition, we seek comment on whether and how an ATSC flag or other system would work for broadcast stations carried on cable or direct broadcast satellite systems.

7. As to the means by which digital broadcast copy protection would be achieved, we seek comment on whether to require the use of specific copy protection technologies, such as those identified in Table A to the BPDG Final Report, in consumer electronics devices. Table A identifies those copy protection technologies considered by BPDG for use in conjunction with digital outputs in consumer electronics devices, such as Digital Transmission Content Protection (''DTCP'' or ''5C'') or High-Bandwidth Digital Content Protection (''HDCP''). However, BPDG members were unable to agree on the criteria by which a copy protection technology would be evaluated and approved for digital broadcast use and chose to reserve the topic for potential further discussion by a CPTWG parallel group. We seek comment on how a particular technology would receive approval for use in consumer electronics devices for digital broadcast copy protection purposes. We also seek comment on identifying the appropriate entity to make an approval determination.

8. We also seek comment on the extent to which broadcast copy protection technologies raise privacy concerns and whether rules are needed to ensure that consumers' privacy interests are protected. In addition, we seek comment on whether there are First Amendment or any other constitutional issues that we should consider from the point of view of the industries involved or individual consumers.

9. Finally, we seek comment on the impact of the ATSC flag or other digital broadcast copy protection mechanism on consumers. The BPDG Final Report asserts that a broadcast flag system would not interfere with consumers' ability to make secure copies of DTV content for their personal use, either on personal video recorders or removable media. Similarly, the BPDG Final Report states that the requirements to protect digital outputs should not interfere with consumers' ability to send DTV content across secure digital networks, such as ''home digital network connecting digital set top boxes, digital recorders, digital servers and digital display devices.'' We seek comment on these assertions. We also seek comment on the appropriate scope of protection to be accorded DTV broadcast content. In addition, some parties have raised concerns about the potential impact of a broadcast flag requirement on consumers' existing and future electronic equipment. We seek comment on these concerns, as well as the potential effect of a broadcast flag requirement on the development of new consumer technologies. Finally, we seek comment on the cost impact, if any, that a broadcast flag requirement would have on affected consumer electronics equipment.

III. Jurisdiction

10. We seek comment on the jurisdictional basis for Commission rules dealing with digital broadcast television copy protection. Is this an area in which the Commission could exercise its ancillary jurisdiction under Title I of the Act? We ask commenters to identify provisions of the Act that provide the Commission with authority to implement its ancillary jurisdiction. If the Commission has ancillary jurisdiction over digital broadcast copy protection, are there any limits upon its scope? For example, does the Commission have authority to mandate the recognition of the ATSC flag in consumer electronics devices? We also ask commenters to identify any statutory provisions that might provide the Commission with more explicit authority to adopt digital broadcast copy protection rules. For example, do sections 336(b)(4) and (b)(5) impact upon the Commission's ability to adopt digital broadcast copy protection regulations?

IV. Administrative Matters

11. *Authority.* This Notice of Proposed Rulemaking is issued pursuant to authority contained in sections 1, 4(i), 4(j), 303(r), 403 and 601 of the Communications Act of 1934, as amended.

12. *Ex Parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

13. *Accessibility Information.* Accessible formats of this Notice of Proposed Rulemaking (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202) 418–7426, TTY (202) 418–7365, or at *bmillin@fcc.gov.*

14. *Comment Information.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 30, 2002, and reply comments on or before December 13, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 Fed. Reg. 24121 (1998).

15. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

16. *Regulatory Flexibility Act.* As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this NPRM. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the NPRM, and they should have a separate and distinct heading designating them as responses to the IRFA.

Initial Regulatory Flexibility Analysis

17. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (''NPRM''). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above in paragraph 15. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

18. *Need for, and Objectives of, the Proposed Rules.* The need for FCC regulation in this area is that the lack of digital broadcast copy protection has been identified as a key impediment to anticipated rate and scope of the transition for digital television (''DTV''). In the absence of a digital copy protection scheme preventing the unauthorized copying and redistribution of digital media, content providers have asserted that they will not permit high quality programming to be broadcast digitally. Without such programming, consumers may be reluctant to invest in DTV receivers and equipment, thereby delaying the DTV transition. While private industry negotiations have reached consensus on the technical ''broadcast flag'' standard to be implemented, ATSC Standard A65/A, agreement was not universally reached on compliance and robustness requirements to be associated with the flag's use. Agreement was also not reached on enforcement mechanisms for digital broadcast copy protection. The NPRM seeks comment on whether the Commission can and should mandate a regulatory copy protection regime for digital broadcast television. The objective of the Proposed Rules will be to facilitate the DTV transition.

19. *Legal Basis.* The authority for the action proposed in this rulemaking is contained in sections 1, 4(i) and (j), 303, 403 and 601 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 303, 403, and 521.

20. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental entity'' under section 3 of the Small Business Act. In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

21. In this context, the application of the statutory definition to television stations is of concern. An element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimates that follow of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent.

22. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over inclusive to this extent.

23. *Television Broadcasting.* The proposed rules and policies could apply to television broadcasting licensees, and potential licensees of television service. The Small Business Administration defines a television broadcasting station that has no more than $12 million in annual receipts as a small business. Television broadcasting consists of establishments primarily engaged in broadcasting images together with sound, including the production or transmission of visual programming which is broadcast to the public on a predetermined schedule. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce programming in their own studios. Separate establishments primarily engaged in producing programming are classified under other NAICS numbers.

24. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,686 operating television broadcasting stations in the nation as of September 2001. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments. Thus, the new rules could affect approximately 1,686 television stations; approximately 77%, or 1,298 of those stations are considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television affiliated companies.

25. *Cable and Other Program Distribution.* The SBA has developed a small business size standard for cable and other program distribution services, which includes all such companies generating $12.5 million or less in revenue annually. This category includes, among others, cable operators, direct broadcast satellite (''DBS'') services, home satellite dish (''HSD'') services, multipoint distribution services (''MDS''), multichannel multipoint distribution service (''MMDS''), Instructional Television Fixed Service (''ITFS''), local multipoint distribution service (''LMDS''), satellite master antenna television (''SMATV'') systems, and open video systems (''OVS''). According to the Census Bureau data, there are 1,311 total cable and other pay television service firms that operate throughout the year of which 1,180 have less than $10 million in revenue. We address below each service individually to provide a more precise estimate of small entities.

26. *Cable Operators.* The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. We last estimated that there were 1,439 cable operators that qualified as small cable companies. Since then, some of those companies may have

grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the decisions and rules adopted in this Report and Order.

27. The Communications Act, as amended, also contains a size standard for a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 68,500,000 subscribers in the United States. Therefore, an operator serving fewer than 685,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 685,000 subscribers or less totals approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

28. *Direct Broadcast Satellite (''DBS'') Service.* Because DBS provides subscription services, DBS falls within the SBA-recognized definition of cable and other program distribution services. This definition provides that a small entity is one with $12.5 million or less in annual receipts. There are four licensees of DBS services under Part 100 of the Commission's Rules. Three of those licensees are currently operational. Two of the licensees that are operational have annual revenues that may be in excess of the threshold for a small business. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. DBS service requires a great investment of capital for operation, and we acknowledge, despite the absence of specific data on this point, that there are entrants in this field that may not yet have generated $12.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

29. *Home Satellite Dish (''HSD'') Service.* Because HSD provides subscription services, HSD falls within the SBA-recognized definition of cable and other program distribution services. This definition provides that a small entity is one with $12.5 million or less in annual receipts. The market for HSD service is difficult to quantify. Indeed, the service itself bears little resemblance to other MVPDs. HSD owners have access to more than 265 channels of programming placed on C-band satellites by programmers for receipt and distribution by MVPDs, of which 115 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming package. Thus, HSD users include: (1) Viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other MVPDs; (2) viewers who receive only non-subscription programming; and (3) viewers who receive satellite programming services illegally without subscribing. Because scrambled packages of programming are most specifically intended for retail consumers, these are the services most relevant to this discussion.

30. *Multipoint Distribution Service (''MDS''), Multichannel Multipoint Distribution Service (''MMDS'') Instructional Television Fixed Service (''ITFS'') and Local Multipoint Distribution Service (''LMDS'').* MMDS systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave frequencies of the MDS and ITFS. LMDS is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications.

31. In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues of less than $40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (''BTAs''). Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. As noted, the SBA has developed a definition of small entities for pay television services, which includes all such companies generating $12.5 million or less in annual receipts. This definition includes multipoint distribution services, and thus applies to MDS licensees and wireless cable operators that did not participate in the MDS auction. Information available to us indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of $12.5 million annually. Therefore, for purposes of the IRFA, we find there are approximately 850 small MDS providers as defined by the SBA and the Commission's auction rules.

32. The SBA definition of small entities for cable and other program distribution services, which includes such companies generating $12.5 million in annual receipts, seems reasonably applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

33. Additionally, the auction of the 1,030 LMDS licenses began on February 18, 1998, and closed on March 25, 1998. The Commission defined ''small entity'' for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding calendar years. These regulations defining ''small entity'' in the context of LMDS auctions have been approved by the SBA. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

34. In sum, there are approximately a total of 2,000 MDS/MMDS/LMDS

stations currently licensed. Of the approximate total of 2,000 stations, we estimate that there are 1,595 MDS/MMDS/LMDS providers that are small businesses as deemed by the SBA and the Commission's auction rules.

35. *Satellite Master Antenna Television (''SMATV'') Systems.* The SBA definition of small entities for cable and other program distribution services includes SMATV services and, thus, small entities are defined as all such companies generating $12.5 million or less in annual receipts. Industry sources estimate that approximately 5,200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators serve approximately 1.5 million residential subscribers as of July 2001. The best available estimates indicate that the largest SMATV operators serve between 15,000 and 55,000 subscribers each. Most SMATV operators serve approximately 3,000–4,000 customers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, we believe that a substantial number of SMATV operators qualify as small entities.

36. *Open Video Systems (''OVS'').* Because OVS operators provide subscription services, OVS falls within the SBA-recognized definition of cable and other program distribution services. This definition provides that a small entity is one with $ 12.5 million or less in annual receipts. The Commission has certified 25 OVS operators with some now providing service. Affiliates of Residential Communications Network, Inc. (''RCN'') received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. RCN has sufficient revenues to assure us that they do not qualify as small business entities. Little financial information is available for the other entities authorized to provide OVS that are not yet operational. Given that other entities have been authorized to provide OVS service but have not yet begun to generate revenues, we conclude that at least some of the OVS operators qualify as small entities.

37. *Electronics Equipment Manufacturers.* Rules adopted in this proceeding could apply to manufacturers of DTV receiving equipment and other types of consumer electronics equipment. The SBA has developed definitions of small entity for manufacturers of audio and video equipment as well as radio and television broadcasting and wireless communications equipment. These categories both include all such companies employing 750 or fewer employees. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will utilize the SBA definitions applicable to manufacturers of audio and visual equipment and radio and television broadcasting and wireless communications equipment, since these are the two closest NAICS Codes applicable to the consumer electronics equipment manufacturing industry. However, these NAICS categories are broad and specific figures are not available as to how many of these establishments manufacture consumer equipment. According to the SBA's regulations, an audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 554 U.S. establishments that manufacture audio and visual equipment, and that 542 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 12 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Under the SBA's regulations, a radio and television broadcasting and wireless communications equipment manufacturer must also have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

38. *Computer Manufacturers.* The Commission has not developed a definition of small entities applicable to computer manufacturers. Therefore, we will utilize the SBA definition of electronic computers manufacturing. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 563 firms that manufacture electronic computers and of those, 544 have fewer than 1,000 employees and qualify as small entities. The remaining 19 firms have 1,000 or more employees. We conclude that there are approximately 544 small computer manufacturers.

39. *Description of Projected Reporting, Recordkeeping and other Compliance Requirements.* At this time, we do not expect that the proposed rules would impose any additional reporting or recordkeeping requirements. However, compliance may require the manufacture of broadcast flag-compliant DTV receivers and other consumer electronics equipment. Compliance may also require broadcasters and/or content providers to include a content control mark within digital broadcast television programs. While these requirements could have an impact on consumer electronics manufacturers, broadcasters and content providers, such impact would be similarly costly for both large and small entities. We seek comment on whether others perceive a need for extensive recordkeeping and, if so, whether the burden would fall on large and small entities differently.

40. *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

41. As indicated above, the NPRM seeks comment on whether the Commission can and should mandate a regulatory copy protection regime for digital broadcast television in order to

facilitate the DTV transition. This regime may require the manufacture of broadcast flag-compliant DTV receivers and other consumer electronics equipment. It may also require broadcasters and/or content providers to include a content control mark within digital broadcast television programs. At this writing, no alternatives to our proposals herein have been mentioned because we anticipate no differential impact on smaller entities. However, we welcome comment on modifications of the proposals if based on evidence of potential differential impact.

42. *Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposals.* None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–20957 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 67, No. 161

Tuesday, August 20, 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

Office of the Secretary; Notice of Solicitation for Membership to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill a new vacancy on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is September 15, 2002.

SUPPLEMENTARY INFORMATION: Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended in the 2002 Farm Bill by adding one additional member to the National Agricultural Research, Extension, Education, and Economics Advisory Board which totals 31 members. Since the Advisory Board's inception by congressional legislation in 1996, each member has represented a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The additional Advisory Board member is designated as category ''(R) one member representing a non-land grant college or university with a historic commitment to research in the food and agricultural sciences.'' This amendment redesignates former member categories (R) through (DD) to (S) through (EE) respectively.

Nominations for the new category ''R'' representing Non Land-Grant Colleges or Universities'' are being sought. As a result of this new slot, all members currently identified by categories from letter ''R'' to letter ''DD'' will be *shifted to the next letter (but will retain their same category title),* as follows:

Category R. Non Land-Grant Colleges or Universities With a historic commitment to Food and Agricultural Research

Category S. Scientific Community not closely associated with Agriculture
Category T. Transportation of Food and Agricultural Products (foreign and domestic)
Category U. Food Retailing and Marketing
Category V. Food and Fiber Processors
Category W. Rural Economic Development
Category X. National Consumer Interest Group
Category Y. National Forestry Group
Category Z. National Conservation or Natural Resource Group
Category AA. Private Sector Organization involved in International Development
Category BB. An Agency of USDA lacking Research Capabilities
Category CC. Research Agency of the Federal Government (other than USDA)
Category DD. National Social Science Association
Category EE. National Organizations directly concerned with Agricultural Research, Education, and Extension

Note: Category R is the only category available for nomination at this time. Nominations for ''Category R'' above are being solicited from non land-grant colleges or universities that represent a wide variety of food and agricultural research interests throughout the country. In addition to a nomination letter, a nominee must fill out Form AD–755, ''Advisory Committee Membership Background Information''. All nominees will be vetted before being considered for selection. The appointment to the National Agricultural Research, Extension, Education, and Economics Advisory Board will be made by the Secretary of Agriculture. Please send the nomination letter and the nominee's name, resume, and his/her completed AD–755 form to USDA, Office of the Advisory Board, Research, Education, and Economics, 1400 Independence Avenue, SW., Room 344–A, Jamie L. Whitten Building, Washington, DC 20250–2255, postmarked no later than September 15, 2002. A fax version (fax: 202–720–6199) is also highly recommended to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, 1400 Independence Avenue, SW., Room 344–A, Whitten Building, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199 or e-mail: *smorgan@reeusda.gov.* Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Advisory Board take into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Done at Washington, DC this 30th day of July 2002.

Rodney J. Brown,

Deputy Under Secretary, Research, Education, and Economics, U.S. Department of Agriculture.

[FR Doc. 02–21068 Filed 8–19–02; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Grazing Permit Administration Forms

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on Information Collection Number 0596–0003, Grazing Permit Administration Forms. The proposed information collection authorization covers five existing forms with slight revisions, one existing form without revision, and one new form. The authorization for the forms currently covered by Information Collection Number 0596–0003 expires on December 31, 2002.

DATES: Comments must be received in writing on or before October 21, 2002.

Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Eric Olson, Forest & Rangelands Staff, Mail Stop 1103, Forest Service, USDA, PO Box 96090, Washington, DC 20090–6090.

Comments also may be submitted via facsimile to (202) 205–1096 or by e-mail to *ecolson@fs.fed.us.*

The public may inspect comments received at the offices of the Forest & Rangelands Staff, Sidney Yates Building—3 South, 201 14th Street, SW., Washington, DC 20250, during normal business hours. Visitors are encouraged to call ahead to (202) 205–1457 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Eric Olson, Forest & Rangelands Staff, (202) 205–1457, or send an e-mail to *ecolson@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection to be extended:

Title: FS–2200–1, Refund, Credit, or Transfer Application.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension with no revision.

Abstract: Information collected on this form enables the Forest Service to evaluate a grazing permittee's request for a refund, credit, or transfer of the unused portion of the preceding season's grazing fees paid to the Forest Service for the use of National Forest System lands by permitted livestock. In addition to name and mailing address information, the applicant also indicates on this form the amount of permitted grazing use that was not exercised, the reason it was not exercised, the amount of the grazing fees paid for use that was not exercised, and whether this amount should be refunded, credited, or transferred to another account.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Grazing permittees.

Estimated Annual Number of Respondents: 600.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 200 hours.

Description of Information Collection

Title: FS–2200–2, Application for Temporary Grazing or Livestock Use Permit.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension with revision.

Abstract: Information collected on this form enables the Forest Service to determine whether individuals qualify for a temporary grazing or livestock use permit authorizing grazing on certain National Forest System lands for a period not to exceed one year. The Forest Service uses the information on this form to determine whether the applicant is likely to comply with grazing permit terms and conditions; the type, amount, and location where grazing use is being sought; and the applicant's name and mailing address so that the agency knows where and to whom correspondence, including the bill for grazing fees, should be sent. This form has been revised to incorporate material previously contained in Form FS–2200–15, Application and Permit for Livestock Use, which is now obsolete. The revisions do not change the scope or extent of information collection requests that were in the previous form.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Grazing permittees or applicants seeking short term grazing privileges.

Estimated Annual Number of Respondents: 1,750.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 583 hours.

Description of Information Collection

Title: FS–2200–12, Waiver of Term Grazing Permit.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension with revision.

Abstract: Information collected on this form enables the Forest Service to terminate an individual's grazing privileges on certain National Forest System lands based upon that individual's sale or transfer of base ranch property, permitted livestock, or both to another individual who desires to acquire a new grazing permit. The information on this form enables the Forest Service to cancel the grazing permit issued to the individual who sold or transferred the base ranch property, permitted livestock, or both; to identify the individual who acquired the base ranch property, permitted livestock, or both as the preferred applicant for a new grazing permit to replace the cancelled one. This form has been revised but the revisions do not change the scope and extent of the information collection requests that were in the previous form.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Grazing permittees seeking to relinquish their grazing privileges in favor of individuals who have acquired their base property, permitted livestock, or both.

Estimated Annual Number of Respondents: 750.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 250 hours.

Description of Information Collection

Title: FS–2200–13, Escrow Waiver of Term Grazing Permit Privileges.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension with revision.

Abstract: The information on this form enables the Forest Service to identify the name and address of the lender to a permittee, the amount of the loan from the lender to the permittee, and the due date for repayment of the loan by the permittee. This information is used by the Forest Service to determine whether it should hold in escrow on behalf of the lender all of the privileges associated with the grazing permit except the privilege to graze. It allows the Forest Service to notify the lender of important issues associated with the administration of the grazing permit, and facilitates the transfer of a grazing permit to a lender if the permittee defaults on the loan. This form has been revised but the revisions do not change the scope and extent of the information collection requests that were in the previous form.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Individuals holding a grazing permit who mortgage their base property or permitted livestock.

Estimated Annual Number of Respondents: 150.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 50 hours.

Description of Information Collection

Title: FS–2200–16, Application for Term Grazing Permit.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension with revision.

Abstract: The information collected on this form enables the Forest Service to evaluate an applicant's eligibility and qualification to hold a term grazing permit authorizing the use of National Forest System lands for livestock grazing purposes, to determine the applicant's ability to comply with grazing permit terms and conditions, and to notify the applicant in writing of matters associated with the administration of permitted grazing including, but not limited to, bills for the fees associated with the permitted grazing activity. This form has been revised but the revisions do not change the scope and extent of the information collection requests that were in the previous form.

Estimate of Annual Burden: 30 minutes.

Type of Respondents: Individuals applying for a term grazing permit.

Estimated Annual Number of Respondents: 1,800.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 900 hours.

Description of Information Collection

Title: FS–2200–17, Application for Term Private Land Grazing Permit.

OMB Number: 0596–0003.

Expiration Date of Approval: December 31, 2002.

Type of Request: Extension with revision.

Abstract: The information collected on this form enables the Forest Service to evaluate the applicant's eligibility and qualification to hold a term private-land grazing permit, which authorizes the use of National Forest System lands and private lands owned by the applicant for livestock grazing purposes. The information also enables the Forest Service to determine the applicant's ability to comply with grazing permit terms and conditions, and to notify the applicant regarding grazing permit administration issues including, but not limited to, bills for the grazing fees associated with the permitted grazing activity. This form has been revised but the revisions do not change the scope and extent of the information collection requests that were in the previous form.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Individuals applying for a term private-land grazing permit.

Estimated Annual Number of Respondents: 150.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 50 hours.

The following describes the new information collection.

Description of Information Collection

Title: FS–2200–__, Ownership Statement by Corporation or Partnership.

OMB Number: 0596–0003.

Type of Request: New.

Abstract: The information collected on this form enables the Forest Service to evaluate whether a corporation or partnership is eligible and qualified to hold a term grazing permit authorizing grazing on certain National Forest System lands, whether the corporation is authorized to conduct business in the state in which the National Forest System lands to be grazed are located, and which shareholders or partners are authorized to sign official documents on behalf of the corporation or partnership. This is a new Service-wide form based on two similar forms that have been used on a regional basis for many years. These two similar forms, R1–FS–2200–5 and R2–FS–2200–6, are covered under the current information collection authorization but will be discontinued when this new Service-wide form becomes effective.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Corporations or partnerships applying for a grazing permit.

Estimated Annual Number of Respondents: 800.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 267 hours.

Comment Is Invited

Comment is invited on the following: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. In submitting this proposal to the Office of Management and Budget for approval, the Forest Service will summarize and respond to comments received.

Dated: August 9, 2002.

Jack L. Craven,

Acting Deputy Chief, National Forest System.

[FR Doc. 02–21130 Filed 8–19–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet on August 27, 2002, in Sierraville, California. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting will be held August 27, 2002 from 10 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Sierraville Ranger Station, Hwy 89 North, (317 South Lincoln), Sierraville, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St., Nevada City, CA, 95959, (530) 478–6205, E-mail: *awestling@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and announcements; (2) Review of projects approved for 2001 and implementation status; (3) Review and confirmation of project criteria; (4) Review and confirmation of voting and discussion process for new proposals; (5) Presentation of projects and vote; (6) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: August 14, 2002.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 02–21077 Filed 8–19–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Colville Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Colville Resource Advisory Committee (RAC) will meet on Wednesday, September 4, 2002 at the Spokane Community College, Colville Campus, Dominion Room at 985 S. Elm Street, Colville, Washington. The meeting will begin at 9 a.m. and conclude at 4 p.m.

Agenda items include: (1) review, modify and approve minutes from March meeting; (2) review and recommend Title II Projects for Fiscal Year 2003 to be submitted to the forest designated official; (3) review the updated Title II Submittal Form; (4) develop agenda for next meeting and (5) Public Forum.

FOR FURTHER INFORMATION CONTACT: Please direct questions regarding this meeting to designated federal official, Nora Rasure or Cynthia Reichelt, Public Affairs Officer, Colville National Forest, 765 S. Main, Colville, Washington 99114, (509) 684–7000.

Dated: August 14, 2002.

Nora B. Rasure,

Forest Supervisor.

[FR Doc. 02–21079 Filed 8–19–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Final Results of Sixth Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of sixth antidumping duty new shipper review.

SUMMARY: On June 3, 2002, the Department of Commerce published the preliminary results of the sixth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China with respect to Longkou TLC Machinery Co., Ltd. *See Brake Rotors from the People's Republic of China: Preliminary Results of the Sixth Antidumping Duty New Shipper Review,* 67 FR 38251 (June 3, 2002) (*Preliminary Results*). The period of review is April 1, 2001, through September 30, 2001.

No interested party submitted comments on the preliminary results. Although changes were made to the margin calculation based on our verification findings, the final results do not differ from the preliminary results. The final weighted-average dumping margin for the reviewed company is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: August 20, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR part 351 (2001).

Background

On June 3, 2002, the Department published in the **Federal Register** the preliminary results of the sixth new shipper review of brake rotors from the People's Republic of China (''PRC'') (*See* Preliminary Results at 67 FR 38251). We verified Longkou TLC Machinery Co., Ltd.'s (''LKTLC'') information from June 10, 2002, through June 13, 2002, and issued the verification report on July 2, 2002. We provided parties the opportunity to comment on the preliminary results of the review. However, no interested party submitted comments. The Department has conducted this review in accordance with section 751 of the Act.

Scope of Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning. These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in the order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Verification

As provided in section 782(i)(A) of the Act, and 19 CFR 351.307, we verified LKTLC's information from June 10, 2002, through June 13, 2002, and issued the verification report on July 2, 2002.

Final Results of the Review

The weighted-average dumping margin for the period April 1, 2001, through September 30, 2001, is as follows:

Manufacturer/ exporter	Time period (de minimis)	Margin (percent)
Longkou TLC Machinery Co., Ltd	04/01/01–09/ 30/01	0.00

Assessment Rates

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR

351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these final results of review. We will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Cash Deposit Requirements

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and 751(a)(2)(B) of the Act: (1) The cash deposit rate for LKTLC will be zero; (2) the cash deposit rate for PRC exporters for whom the Department has rescinded the review or for whom a review was not requested for this POR will continue to be the rate assigned in an earlier segment of the proceeding or the PRC-wide rate of 43.32 percent; (3) the cash deposit rate for all other PRC exporters will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: August 14, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–21176 Filed 8–19–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Certain Preserved Mushrooms from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of partial rescission of antidumping duty administrative review.

EFFECTIVE DATE: August 20, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1766 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations are to 19 CFR Part 351 (2001).

Background

On February 1, 2002, the Department published in the **Federal Register** (67 FR 4945) a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (''PRC'') for the period February 1, 2001, through January 31, 2002. On February 28, 2002, the Coalition of Fair Preserved Mushrooms Trade (the ''petitioners'') requested an administrative review of the above referenced antidumping duty order for the following companies: China Processed Food Import & Export Company (''China Processed''); Compania Envasadora del Atlantico (''Compania Envasadora''); Gerber Food (Yunnan) Co., Ltd. (''Gerber''); Green Fresh Foods (Zhangzhou) Co., Ltd. (''Green Fresh''); Raoping Xingyu Foods Co., Ltd. (''Raoping Xingyu''); Shantou Hongda Industrial General Corporation (''Shantou Hongda'') and Shenxian Dongxing Foods Co., Ltd. (''Shenxian Dongxing''). On March 27, 2002, the Department published a notice of initiation of an administrative review of the antidumping duty order with respect to these companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 67 FR 14696.

Partial Recission of Review

On June 11, 2002, the petitioners requested an extension of the deadline to withdraw their requests for review. On June 21, 2002, the Department granted the petitioners' request and extended the deadline until July 9, 2002. On July 9, 2002, the petitioners withdrew their request for an administrative review of Compania Envasadora and China Processed. On July 24, 2002, the petitioners submitted a further letter to the Department seeking to withdraw their request for an administrative review of Raoping Xingyu. On July 30, 2002, respondent Raoping Xingyu submitted a letter requesting that the Department reject the petitioners' request with regard to Raoping Xingyu. On August 2, 2002, the Department informed the respondent Raoping Xingyu of the Department's decision (as set forth below).

Pursuant to section 351.213 (d) of the Department's regulations, the Secretary will rescind an administrative review in whole or in part if a party that requested the review withdraws its request within ninety days of publication of the **Federal Register** notice that initiated the review. Section 351.213(d)(1) further provides that the Secretary may extend this time limit if the Secretary decides that it is reasonable to do so.

Accordingly, we are rescinding in part this review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China as to Compania Envasadora, China Processed and Raoping Xingyu. This review will continue with respect to Gerber, Green Fresh, Shantou Hongda and Shenxian Dongxing.

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: August 12, 2002.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02–21175 Filed 8–19–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081502A]

Proposed Information Collection; Comment Request; Bluefin Tuna Dealer Reporting Package

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 21, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brad McHale, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, One Blackburn Dr., Gloucester, MA 01930; phone (978) 281–9260.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act (16 U.S.C. 1801 *et seq.*). NOAA Fisheries collect information via dealer reports to monitor the U.S. catch of tuna in relation to the quota, thereby ensuring that the United States complies with its international obligations to the International Commission for the Conservation of Atlantic Tunas (ICCAT). Provisions of the domestic regulations are also monitored through this collection of information, such as compliance with closures, fishing seasons, and subquotas by gear type and/or user group. This information provides the catch data necessary to assess the status of tuna resources. Assessments are conducted and presented to ICCAT annually. The data provide, in part, the basis for ICCAT management recommendations that become binding on member nations. In addition, dealer reports provide essential information for domestic management policy and rule-making. This collection also includes imports of Pacific bluefin tuna.

II. Method of Collection

Dealers who buy , sell, or receive for commercial purposes any large medium or giant size class Atlantic bluefin tuna are required to report all transactions to NOAA Fisheries via daily and biweekly reporting forms. These forms collect certain information for each Atlantic bluefin tuna that is sold at landing. Dealers who purchase any other types or sizes of Atlantic tunas, or Pacific coast dealers who export or import bluefin tuna, are required to submit biweekly reports only. Dealers must affix a tag to the tail of each bluefin tuna, record these tag numbers to the label of any packages of tuna parts to be transported for domestic use or export. Anglers who catch giant or large-medium size class Atlantic bluefin tuna must also submit daily reports.

III. Data

OMB Number: 0648–0239.

Form Number: NOAA 88–144.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations(tuna dealers), individuals or households.

Estimated Number of Respondents: 541.

Estimated Time Per Response: 2 minutes for daily reports; 15.5 minutes for biweekly Atlantic bluefin tuna reports; 43 minutes for the Pacific biweekly report; and 1 minute for tagging and recording the tag number of bluefin tuna.

Estimated Total Annual Burden Hours: 1,468.

Estimated Total Annual Cost to Public: $1,096.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is still necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 13, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21174 Filed 8–19–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 081402B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Gear-Marking Requirements for Atlantic Large Whale Take Reduction Plan.

Form Number(s): None.

OMB Approval Number: 0648–0364.

Type of Request: Regular submission.

Burden Hours: 2,572.

Number of Respondents: 4,506.

Average Hours Per Response: 0.6 minutes.

Needs and Uses: Persons setting lobster trap or gillnet gear in specified areas of the Atlantic Ocean are required to mark their gear with one color designating the type of gear and the area where the gear is set. The shark gillnet fishery requires their gear to be marked with two color codes, one color designating the type of gear and the other designating the area where the gear is set. The designated areas are critical right whale habitat or areas where right whales are seen on a regular basis. The purpose of the requirement is

to obtain information on where large whales are becoming entangled in fishing gear and the type of gear responsible for the entanglement. The information helps NOAA to focus risk-reduction efforts on specific problem areas rather than broader overall requirements on the industry.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Third-party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 13, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21173 Filed 8–19–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel To Access the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: September 12 and 13, 2002.

ADDRESSES: RAND, 1200 S. Hayes Street, 4th floor, Arlington, VA 22202–5050.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its Web site at *http://www.rand.org/organization/nsrd/terrpanel;* it can also be reached at (703) 413–1100 extension 5321.

SUPPLEMENTARY INFORMATION: *Proposed Schedule and Agenda:* Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 11 a.m. until 5:30 p.m. on September 12, 2002 and from 8:30 a.m. until 2 p.m. on September 13, 2002. Time will be allocated for public comments by individuals or organizations at the end of the meeting on September 13.

Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Nancy Rizor, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: August 12, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–21047 Filed 8–19–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University, DoD.

ACTION: Notice of board of visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held in the Packard Conference Center. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: September 18, 2002 from 0900–1500.

ADDRESSES: Packard Conference Center, Building 184, Fort Belvoir, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Reid at 703–805–5133.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Diane Reid at 703–805–5133.

Dated: August 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–21046 Filed 8–19–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA).

ACTION: Open meeting notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Appendix 2 of title 5, United States Code, Public Law 92–463, notice is hereby given that a meeting of the Advisory Council on Dependents' Education (ACDE) is scheduled. The purpose of the ACDE is to recommend to the Director, Department of Defense Education Activity (DoDEA), general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDs; and to perform other tasks as may be required by the Secretary of Defense.

DATES: September 19, 2002, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Webb Building, 9th Floor Director's Conference Room, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Janet Rope at 703–696–4385, extension 1959.

Dated: August 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–21045 Filed 8–19–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–117–000]

City of Burbank, CA, Complainant v. Calpine Energy Services, L.P., Duke Energy Trading and Marketing, L.L.C., El Paso Merchant Energy, L.P., Respondents.; Notice of Complaint

August 14, 2002.

Take notice that on August 12, 2002, the City of Burbank, California (Burbank) tendered for filing Federal Energy Regulatory Commission (Commission) a ''Complaint And Request For Investigation, Contract Modification, And Refunds, Request To Hold Further Procedures In Abeyance, And Request For Privileged Treatment And Proposed Protective Agreement''

against Calpine Energy Services, L.P., Duke Energy Trading and Marketing, L.L.C., and El Paso Merchant Energy, L.P. (collectively, Respondents). Burbank's Complaint alleges that prices under contracts for purchases that it entered with Respondents during a period when the California market was dysfunctional are unjust and unreasonable and not in the public interest. Burbank requests the Commission to hold further procedures regarding the Complaint in abeyance. Burbank has requested confidential treatment for certain information.

Copies of the Complaint were served, simultaneous with filing with the Commission, on Respondents, and the Public Utilities Commission of the State of California.

Any person desiring to be heard 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. The answer to the complaint and all comments, interventions or protests must be filed on or before September 3, 2002. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The answer to the complaint, 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 strongly encourages electronic filings.

Linwood A. Watson, Jr.

Deputy Secretary.

[FR Doc. 02–21148 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–418–000]

Columbia Gas Transmission Corporation; Notice of Application

August 14, 2002.

Take notice that on August 6, 2002, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia, 22030, filed in [Docket No. CP02–418–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its Storage Well No. 7519 and associated appurtenances in its Holmes Storage Field in Holmes County, Ohio, all as more fully set forth in the application.

Copies of this application are on file with the Commission and are available for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Columbia states that the due to active stream erosion and the physical condition of the facilities proposed for abandonment are such that an expensive repair or abandonment is required. Columbia further states a concern of the possibility of (1) corrosion of the piping due to stream encroachment; (2) ingress/egress issues related to the encroaching stream; (3) gas migrating to nearby water wells; and (4) debris carried by the stream under flood conditions striking the well and compromising the integrity of the well. The total cost of the abandonment listed in Columbia's application is $110,013.

Any questions regarding the application should be directed to Frederic J. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia, 26301 at (304) 627–3462 or by fax at (304) 627–3305.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 4, 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. 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.

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. 02–21147 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10455–023]

JDJ Energy Company; Notice of Extension of Deadline for Filing Comments and/or Motions on Notice of Application for Amendment of License

August 14, 2002.

Take notice that the deadline for filing comments, motions to intervene, or protests on the notice of application to amend the license for the River Mountain Pumped Storage Project (P–10455–023), issued August 6, 2002, is extended to October 2, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21153 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–085]

Tennessee Gas Pipeline Company; Notice of Clarification Filing

August 14, 2002.

Take notice that on August 8, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing a clarification to its Negotiated Rate Tariff Filing of July 25, 2002.

Subsequent to its July 25 filing, Tennessee learned that Rhode Island State Energy Partners, L.P. (RISEP) had merged with Rhode Island State Statutory Energy Trust 2000 (Trust), with the Trust emerging as the surviving entity. Therefore, the negotiated rate arrangement filed on July 25, 2002 is with the Trust and not with RISEP.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.200(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. 02–21155 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–178–000, et al.]

Orion Power New York GP II, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 12, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Orion Power New York GP II, Inc.

[Docket No. EG02–178–000]

Take notice that on August 7, 2002, Orion Power New York GP II, Inc., (OPNY) tendered for filing an application for a determination of exempt wholesale generator status, pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended, (PUHCA), 15 U.S.C. 79z–5a (1994), and Subchapter T, part 365 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR part 365.

OPNY is a Delaware Corporation and owns and operates a generation facility in St Lawrence County, New York.

Comment Date: September 3, 2002.

2. Otter Tail Power Company

[Docket Nos. ER02–912–000, ER02–912–001, ER02–1728–000, ER02–1729–000, ER02–1730–000, and ER02–1732–000]

Take notice that on August 5, 2002, Otter Tail Power Company (Otter Tail) filed a revised service agreement in compliance with the July 5, 2002 Federal Energy Regulatory Commission Order. The proposed service agreement for East Grand Forks concerning Schedules 1, 3A, and 4A are to reflect that they are not required services.

Comment Date: August 26, 2002.

3. Duke Energy Grays Harbor, LLC

[Docket No. ER02–2426–000]

Take notice that on August 7, 2002, Duke Energy Grays Harbor, LLC (Duke Grays Harbor) tendered for filing pursuant to Section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1.

Duke Grays Harbor seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Grays Harbor also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Grays Harbor seeks an effective date 60 days from the date of filing of its proposed rate tariff.

Comment Date: August 28, 2002.

4. California Independent System Operator Corporation

[Docket No. ER02–2427–000]

Take notice that on August 7, 2002, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 429 under ISO Rate Schedule No. 1, which is a Participating Generator Agreement (PGA) between the ISO and Delta Energy Center, LLC (Delta). The ISO has revised the PGA to update Original Volume No. 1 of the PGA. The ISO requests that the revised PGA be made effective as of February 8, 2002.

The ISO states that this filing has been served on all entities that are on the official service list for [Docket No. ER02–1224–000].

Comment Date: August 28, 2002.

5. California Independent System Operator Corporation

[Docket No. ER02–2428–000]

Take notice that on August 7, 2002, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 235 under FERC Electric Tariff, Original Volume No. 1, which is a Participating Generator Agreement (PGA) between the ISO and Mountainview Power Company (Mountainview). The ISO has revised the PGA to update Original Volume No. 1 of the PGA. The ISO requests that the revised PGA be made effective as of May 7, 1999.

The ISO has revised the PGA to update Original Volume No. 1 of the PGA. The ISO requests that the revised PGA be made effective as of May 7, 1999.

The ISO states that this filing has been served on all entities that are on the

official service list for [Docket No. ER99–2990–000.

Comment Date: August 28, 2002.

6. California Independent System Operator Corporation

[Docket No. ER02–2429–000]

Take notice that on August 7, 2002, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 233 under FERC Electric Tariff, Original Volume No. 1, which is a Participating Generator Agreement (PGA) between the ISO and Riverside Canal Power Company (Riverside). The ISO has revised the PGA to update Original Volume No. 1 of the PGA. The ISO requests that the revised PGA be made effective as of May 7, 1999.

The ISO states that this filing has been served on all entities that are on the official service list for [Docket No. ER99–2988–000].

Comment Date: August 28, 2002.

7. California Independent System Operator Corporation

[Docket No. ER02–2430–000]

Take notice that on August 7, 2002, the California Independent System Operator Corporation (ISO) tendered for filing Fifth Revised Service Agreement No. 29 under FERC Electric Tariff, Original Volume No. 1, which is a Participating Generator Agreement (PGA) between the ISO and Southern California Edison Company (Edison). The ISO has revised the PGA to update Original Volume No. 1 of the PGA. The ISO requests that the revised PGA be made effective as of December 5, 1997.

The ISO states that this filing has been served on all entities that are on the official service list for [Docket No. ER02–532–000.

Comment Date: August 28, 2002.

8. El Paso Electric Company

[Docket No. ER02–2431–000]

Take notice that on August 7, 2002, El Paso Electric Company (EPE) tendered for filing a Notice of Cancellation of its Rate Schedule No. 56, which governs cost-based sales of partial requirements energy to Imperial Irrigation District. EPE requests an effective date of August 8, 2002, for the cancellation.

Comment Date: August 28, 2002.

9. PJM Interconnection, L.L.C.

[Docket No. ER02–2432–000]

Take notice that on August 7, 2002, PJM Interconnection, L.L.C. (PJM), submitted for filing with the Federal Energy Regulatory Commission (Commission) an executed interim interconnection service agreement and an executed interconnection service agreement between PJM and PPL Montour, L.L.C.

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties. Copies of this filing were served upon each of the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: August 28, 2002.

10. Puget Sound Energy, Inc.

[Docket No. ER02–2433–000]

Take notice that on August 7, 2002, Puget Sound Energy, Inc. tendered for filing an Interconnection Agreement with The City of Ellensburg (the City). A copy of the filing was served upon the City.

Comment Date: August 28, 2002.

11. Genstar Energy L.L.C.

[Docket No. ER02–2434–000]

Take notice that on August 5, 2002, Genstar Energy, L.L.C. (Genstar) requests the Federal Energy Regulatory Commission terminate without prejudice to refile at a later date Genstar's Rate Schedule No. 1 which was accepted for filing on May 27, 1999 in Docket No. ER99–2364–000.

Comment Date: August 26, 2002.

12. Orion New York GP II, Inc.

[Docket No. ER02–2435–000]

Take notice that on August 7, 2002, Orion New York GP II, Inc. (OPNY) tendered for filing pursuant to Rule 205 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 authorizing OPNY to make sales at market-based rates. OPNY has requested this rate schedule become effective on October 7, 2002.

OPNY intends to sell electric power at wholesale. In transactions where OPNY sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. OPNY's Rate Schedule provides for the sale of energy and capacity at agreed prices.

Comment Date: August 28, 2002.

13. Mid-Continent Area Power Pool

[Docket No. ER02–2436–000]

Take notice that on August 8, 2002, the Mid-Continent Area Power Pool (MAPP), tendered for filing six copies of two amendments to the MAPP Restated Agreement that propose to eliminate the term restrictions that limit service on the MAPP Executive Committee and Regional Reliability Committee.

Comment Date: August 29, 2002.

14. Old Dominion Electric Cooperative

[Docket No. ES02–50–000]

Take notice that on August 5, 2002, Old Dominion Electric Cooperative (Old Dominion) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to (1) issue up to and including $700 million aggregate principal amount in long-term debt securities, and (2) execute up to and including $700 million aggregate principal amount in related swap agreements.

Old Dominion also requests waiver of the competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: August 30, 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21033 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2114–003 Washington]

Public Utility District No. 2 of Grant County; Notice of Availability of Draft Environmental Assessment and Solicitation of Comments

August 14, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Energy Projects (OEP) has prepared a draft Environmental Assessment (DEA) of an Offer of Settlement (OS) and Memorandum of Agreement (MOA) that propose, as part of a license amendment, spill measures for enhancing the downstream passage survival and passage efficiency of outmigrating anadromous salmonid juveniles at the Priest Rapids Project in Grant County, Washington. Part of the project occupies 3,051.92 acres of Federal lands administered by the Bureau of Land Management, Department of Energy, Department of Army, Bureau of Reclamation, and the U.S. Fish and Wildlife Service.

The DEA contains the staff's analysis of the potential environmental impacts of the proposed amendment and concludes that approval of Grant's proposed amendment or a staff alternative would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the DEA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 2114–003 to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

For further information, contact Bob Easton at (202) 502–6045.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21150 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Variance and Soliciting Comments, Motions To Intervene, and Protests

August 14, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request of temporary variance for this water year to allow the diversion of 20,000 additional acre-feet of storage water for irrigation purposes.

b. *Project No.:* 1835–219

c. *Date Filed:* July 31, and August 5, 2002

d. *Applicant:* Nebraska Public Power District

e. *Name of Project:* North Platte/Keystone Diversion Dam

f. *Location:* The project is located on the North and South Platte Rivers in Keith and Lincoln Counties, Nebraska

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)– 825(r) and sections 799 and 801.

h. *Applicant Contact:* Brian Barels, Nebraska Public Power District, P.O. Box 0499, Columbus, NE 68602–0499

i. *FERC Contact*: Any questions on this notice should be addressed to Diana Shannon at (202) 502–8887, or e-mail address: *diana.shannon@ferc.gov*

j. *Deadline for filing comments and or motions:* September 13, 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 following number (P–1835–219) on any comments or motions filed.

k. *Description of Request:* For the current water year, Nebraska Public Power District (NPPD) requests the Commission to allow for the diversion of up to 20,000 additional acre-feet (af) of storage water for surface water irrigation purposes in the Gothenburg, Dawson, and Kearney canals. Currently, NPPD is limited to 45,070 af as required by article 403 of the license. At this time, NPPD states western and south-central Nebraska is under severe drought conditions which necessitates this request. The NPPD included with the filing an agreement with Central Nebraska Public Power and Irrigation District [licensee for the Kingsley Dam Project (FERC No. 1417)] , dated July 30, 2002, in which Central has the right to require 'repayment' of the water next year or other year through 2007. The NPPD consulted with and received concurrence from the Nebraska Games and Parks Commission and the U.S. Fish and Wildlife Service. Other entities notified include the Nebraska Audubon Society and the Platte River Whooping Crane Maintenance Trust. On August 9, 2002, the Commission granted NPPD's request, but reserved authority to require changes in operation based upon comments received from this notice.

l. *Location of Application:* This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 208–1371 or for TTY, (202) 208–1659.

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. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21149 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of License Amendment Request and Soliciting Comments, Motions To Intervene, and Protests

August 14, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for License Amendment.

b. *Project No:* 2150–027.

c. *Date Filed:* June 14, 2002.

d. *Applicant:* Puget Sound Energy, Inc.

e. *Name of Project:* Baker River Project.

f. *Location:* The project is located on the Baker River, a tributary of the Skagit River, in Whatcom and Skagit Counties, near Concrete, WA. The project is on Federal Lands in the Mt. Baker-Snoqualmie National Forest.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. William A. Gaines, Puget Sound Energy, Inc., 411 108th Avenue NE, P.O. Box 97034, Bellevue, WA 98009–9734, (425) 454–6363.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Erich Gaedeke at (202) 502–8777, or e-mail address: *erich.gaedeke@ferc.gov*.

j. *Deadline for filing comments and or motions:* September 13, 2002.

All documents (original and seven 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–2150–027) on any comments or motions filed.

k. *Description of Request:* Puget Sound Energy, Inc. (licensee) filed an application to amend its project license for the Baker River Project. The licensee requests Commission approval to modify article 33 of the project license, the alternative Enhanced Flood Control/Coordinated Flow Management Plan, to modify project operations for the protection and enhancement of Endangered Species Act listed fall chinook salmon. The licensee's proposal has been developed in consultation with the National Marine Fisheries Service and Fish and Wildlife Service.

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 ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number to access the document. For assistance call (202) 502–8222 or for TTY (202) 208–1659. 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. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21151 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

August 14, 2002.

a. *Type of Filing:* Notice of Intent to File an Application for a New License.

b. *Project No.:* P–2216.

c. *Date Filed:* August 2, 2002.

d. *Submitted By:* New York Power Authority.

e. *Name of Project:* Robert Moses-Niagara Hydroelectric Project

f. *Location:* On the Niagara River, in the Town of Lewiston and the Town of Niagara, Niagara County, New York. The project does not occupy any Federal lands.

g. *Filed Pursuant To:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *FERC's Contact:* Patti Leppert at (202) 502–6034; e-mail at *patricia.leppert@ferc.gov*.

i. *Licensee's Contact:* Mr. Keith Silliman, Director, Niagara Relicensing, New York Power Authority, 30 South Pearl Street, Albany, New York 12207–3425, (518) 433–6735.

j. *Effective Date of Current License:* September 1, 1957.

k. *Expiration Date of Current License:* August 31, 2007.

l. The existing project has a conventional development and a pumped storage development for a total current installed capacity of 2,538 megawatts (based on currently completed upgrades). Existing project facilities include: (a) Two 700-foot-long intake structures located on the upper Niagara River about 2.6 miles upstream from the American Falls; (b) two 4.3-mile-long concrete underground water

supply conduits, each measuring 46 feet wide by 66.5 feet high; (c) a forebay; (d) the Lewiston Pump-Generating Plant, measuring 975 feet long by 240 feet wide by 160 feet high; (e) the 1,900-acre Lewiston Reservoir at a maximum water surface elevation of 658 feet United

States Lake Survey Datum; (f) the Robert Moses Niagara power plant, including an intake structure, measuring 1,100 feet long by 190 feet wide by 100 feet high; (g) a switch yard; and (h) appurtenant facilities.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 2005.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21152 Filed 8–19–02; 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

August 14, 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.:* 12305–000.

c. *Date filed:* July 15, 2002.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name and Location of Project:* The Caesar Creek Lake Dam Hydroelectric Project would be located on Caesar Creek in Warren County, Ohio. The project would utilize the U.S. Army Corps of Engineers' existing Caesar Creek Lake Dam.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

h. *FERC Contact:* James Hunter, (202) 502–6086.

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. Motions to intervene, protests and comments 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 strongly encourages electronic filings. Please include the project number (P–12305–000) 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 Caesar Creek Lake and Dam, would consist of: (1) A 84-inch-diameter, 40-foot-long penstock connecting to the existing discharge conduit, (2) a powerhouse containing one generating unit with an installed capacity of 1.5 megawatts, (3) a 500-foot-long, 14.7-kilovolt transmission line connecting to an existing substation, and (4) appurtenant facilities. The project would have an average annual generation of 9 gigawatthours.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. 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. 02–21154 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–356–000]

Canyon Creek Compression Company; Notice of Technical Conference

August 14, 2002.

In the Commission's order issued on June 27, 2002,[1] the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that a telephone conference will be held on Tuesday, September 10, 2002, at 10 a.m.

Parties will be sent instruction on how to join the telephone conference.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21156 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

[1] Canyon Creek Compression Company, 99 FERC ¶ 61,351 (2002).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–415–000]

East Tennessee Natural Gas Company; Notice of Meeting

August 14, 2002.

The staff of the Federal Energy Regulatory Commission (FERC) will conduct a meeting with the Blue Ridge Coalition and any other interested persons pertaining to East Tennessee Natural Gas Company's proposed natural gas pipeline Patriot Project in Tennessee, Virginia, and North Carolina. The meeting will be held in Room 3M–3 of the FERC headquarters in Washington DC, 888 First Street, NE., on August 22 starting at 3 p.m. Any interested persons may attend.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21146 Filed 8–19–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7263–1]

Proposed Settlement Agreement, Clean Air Act Petition for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement providing for a proposal to find that the Wallula, Washington PM–10 Nonattainment Area attained the PM–10 NAAQS by December 31, 2001, and related matters.

SUMMARY: EPA hereby gives notice of a proposed Settlement Agreement in the case entitled *The Port of Walla Walla and The Boise Cascade Corp.* v. *EPA and Christine Todd Whitman, Administrator,* No. 01–70576 (9th Cir.). EPA issues this notice in accordance with section 113(g) of the Clean Air Act, as amended (the ''Act''), 42 U.S.C. 7413(g), which requires EPA to give notice and provide an opportunity for public comment on proposed settlement agreements.

The litigation challenges EPA's previous finding that the Wallula, Washington Nonattainment Area failed to attain the National Ambient Air Quality Standards (''NAAQS'') for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (''PM–10'') by December 31, 1997, the attainment date for moderate PM–10 nonattainment areas. EPA published this finding at 66 FR 9663 (February 9, 2001). The Boise Cascade Corporation and the Port of Walla Walla filed a petition for review of this EPA action under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1).

The proposed Settlement Agreement provides that EPA will undertake a rulemaking that will propose to find that the Wallula area did attain the PM–10 NAAQS by December 31, 2001, the attainment date for serious area PM–10 nonattainment areas, based upon a proposed finding that the exceedences of the PM–10 standards that occurred on certain dates were the result of natural events.

For a period of thirty (30) days following the date of publication of this notice, EPA will accept written comments relating to the proposed Settlement Agreement from persons who are not named as parties or interveners to this litigation. EPA or the Department of Justice may withhold or withdraw consent to the proposed Settlement Agreement if the comments disclose facts or circumstances that indicate that the agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice makes such a determination following the comment period, EPA will take the actions set forth in the Settlement Agreement.

A copy of the proposed Settlement Agreement is available from Donna Deneen, Office of Air Quality, QAQ–107, 1200 Sixth Avenue, Seattle, Washington 98101, telephone (206) 553–6706. Written comments should be sent to Julie Vergeront, Esq., Office of Regional Counsel, ORC–158, 1200 Sixth Avenue, Seattle, Washington 98101, telephone (206) 553–1497. Comments must be submitted on or before September 19, 2002.

Lisa K. Friedman,

Associate General Counsel.

[FR Doc. 02–21197 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7262–9]

Operating Permits Program; Notice of Location of Response Letters to Citizens Concerning Program Deficiencies in Georgia, Louisiana, Missouri, and Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is adding letters to its web site which responds to citizens' comments on alleged deficiencies in the Georgia, Louisiana, Missouri, and Ohio air operating permits programs. The citizen comments were submitted to EPA as a result of a 90-day comment period EPA provided for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs required by title V of the Clean Air Act (Act). The 90-day comment period was from December 11, 2000, until March 12, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Herring, C304–04, Information Transfer and Program Integration Division, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. Telephone: 919–541–3195. Internet address: *herring.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 11, 2000 (65 FR 77376), EPA announced a 90-day comment period during which the public could submit comments identifying deficiencies they perceived to exist in State and local agency operating permits programs required by title V of the Act. The 90-day comment period ended on March 12, 2001.

The December 11, 2000 notice solicited comment from the public regarding either deficiencies in the elements of the approved program, such as deficiencies in the States' approved regulations, or deficiencies in how a permitting authority was implementing its program. The Agency indicated that it would consider information received from the public and determine whether it agreed or disagreed with the purported deficiencies and would then publish notices of those findings. Where the Agency agreed that a claimed shortcoming constituted a deficiency, it indicated it would issue a notice of deficiency. Where the Agency disagreed as to the existence of a deficiency, it indicated it would respond to the citizen comments by December 1, 2001, for comments on programs granted interim approval as of December 11, 2000. For programs granted full approval as of December 11, 2000, EPA indicated it would respond to citizen comments by April 1, 2002.

In accordance with the procedures set forth in the December 11, 2000, notice and outlined above, EPA has issued notices of deficiency for several State permitting authorities in connection with the citizen comment letters submitted pursuant to the December 11, 2000, notice. Notices of deficiency have been published in the **Federal Register** for the following permitting authorities:

Permitting authority	Citation
State of Michigan	66 FR 64038, December 11, 2001.
State of Indiana	66 FR 64039, December 11, 2001.
District of Columbia	66 FR 65947, December 21, 2001.
State of Washington	67 FR 72, January 2, 2002.
State of Texas	67 FR 732, January 7, 2002.
State of Missouri	67 FR 13626, March 25, 2002.
State of Ohio	67 FR 19175, April 18, 2002.
34 California Districts	67 FR 35990, May 22, 2002.

The States identified in these notices of deficiency must adopt appropriate corrections to their title V programs and submit them to EPA for approval within the timeframes set out in the notices of deficiency or face highway and/or offsets sanctions under section 179(b) of the Act [1] and implementation of a whole or partial Federal operating permits program under part 71 if they fail to do so.

Also in accordance with the December 11, 2000, notice, EPA has issued Agency response letters to citizen comments which explain EPA's reasoning in those instances where the Agency disagrees that particular alleged problems constitute deficiencies within the meaning of part 70. The EPA hereby notifies the public that EPA letters responding to citizen allegations concerning Georgia, Louisiana, Missouri, and Ohio are available at the following web address: (*http://www.epa.gov/air/oaqps/permits/response/*). In previously published notices (67 FR 6709, January 13, 2002 and 67 FR 16374, April 5, 2002), EPA alerted the public to this same web site as the location for all previously signed EPA response letters. The EPA also notes that when it signs additional EPA response letters in the future, it will publish additional notices of availability to identify the location of its web site containing those letters.

The EPA notes further that the terms ''deficiency'' and ''notice of deficiency'' are terms of art under the operating permits regulations in part 70. Thus, as explained in our letters responding to citizen comments, in some instances where EPA declined to issue a notice of deficiency, it was because the Agency disagreed that there was a problem with the State program or its implementation that requires correction. In other instances, however, EPA agreed in whole or in part with commenters that a program was not being properly implemented but nevertheless did not issue a notice of deficiency. Rather, EPA determined that the alleged deficiency had been corrected because the State had made a firm commitment to correct program implementation shortcomings where that could be accomplished on a timely basis by the State administratively without additional rulemaking or legislation.

[1] The EPA is in the process of promulgating a rule which will address the order of sanctions.

Background

Pursuant to section 502(b) of the Act, EPA has promulgated regulations establishing the minimum requirements for State and local air agency operating permits programs. We promulgated these regulations on July 21, 1992 (57 FR 32250), in part 70 of title 40, chapter I, of the Code of Federal Regulations. Section 502(d) of the Act requires each State to develop and submit to EPA an operating permits program meeting the requirements of the part 70 regulations and requires us to approve or disapprove the submitted program. In some cases, States have delegated authority to local city, county, or district air pollution control agencies to administer operating permits programs in their jurisdictions. These operating permits programs must meet the same requirements as the State programs. In accordance with section 502(g) of the Act and 40 CFR 70.4(d), for 99 State and local operating permits programs, we granted ''interim'' rather than full approval because the programs substantially met, but did not fully meet, the provisions of part 70. For interim approved programs, we identified in the notice of interim approval those program deficiencies

that would have to be corrected before we could grant the program full approval. As of December 11, 2000, some of those 99 programs had since been granted full approval and the remainder still had interim approval status.

After a State or local permitting program is granted full or interim approval, EPA has oversight of the program to insure that the program is implemented correctly and is not changed in an unacceptable manner. Section 70.4(i) of the part 70 regulations requires permitting authorities to keep us apprised of any proposed program modifications and also to submit any program modifications to us for approval. Section 70.10(b) requires any approved operating permits program to be implemented '' * * * in accordance with the requirements of this part and of any agreement between the State and the Administrator concerning operation of the program.''

Furthermore, 40 CFR 70.4(i) and 70.10(b) provide authority for us to require permitting authorities to correct program or implementation deficiencies. As explained previously, EPA has exercised these authorities by in some instances issuing notices of deficiency and in other instances issuing letters explaining why we do not agree that deficiencies exist.

Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of EPA's letters responding to the citizen letters on the Georgia, Louisiana, Missouri, and Ohio operating permits programs may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of August 20, 2002.

Dated: August 8, 2002.

William T. Harnett,

Director, Information Transfer and Program Integration Division.

[FR Doc. 02–21199 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CO–001–0069; FRL–7262–1]

Adequacy Status of the Aspen, Colorado PM_{10} Maintenance Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this document, EPA is notifying the public that we have found that the motor vehicle emissions budgets in the Aspen maintenance plan for particulate matter of 10 micrograms in size or smaller (PM_{10}) submitted on November 9, 2001, are adequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the City of Aspen and Pitkin County, the Colorado Department of Transportation and the U.S. Department of Transportation are required to use the motor vehicle emissions budgets from this submitted maintenance plan for future conformity determinations.

DATES: This finding is effective September 4, 2002.

FOR FURTHER INFORMATION CONTACT: Jeffrey Kimes, Air & Radiation Program (8P–AR), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, (303) 312–6445. The letter documenting our finding is available at EPA's conformity website: *http://www.epa.gov/oms/transp/conform/adequacy.htm.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean EPA.

This action is simply an announcement of a finding that we have already made. We sent a letter to the Colorado Air Pollution Control Division on May 16, 2002, stating that the motor vehicle emissions budgets in the submitted Aspen PM_{10} maintenance plan are adequate. This finding has also been announced on our conformity website at *http://www.epa.gov/oms/transp/conform/adequacy.htm.*

Transportation conformity is required by section 176(c) of the Clean Air Act. Our conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from our completeness review, and it also should not be used to prejudge our ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved, and vice versa.

We've described our process for determining the adequacy of submitted SIP budgets in a memo entitled, ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' dated May 14, 1999. We followed this guidance in making our adequacy determination.

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

Dated: August 6, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 02–21198 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7262–8]

Watershed Initiative: Call for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is launching a new grant program to encourage the protection and restoration of our country's water bodies through the use of watershed approaches. The President's fiscal year (FY) 2003 budget, which is now before Congress, incorporates a request for $21 million for this Watershed Initiative. Subject to the availability of appropriations for this purpose, EPA plans to select through a competitive process up to 20 watersheds throughout the country for grants to support promising watershed-based approaches to clean water. This notice sets forth the process that will be used for selecting the watersheds and serves as the call for nominations from Governors and Tribal Leaders.

DATES: Governor or Tribal Leader nominations must be postmarked and received electronically by EPA on or before November 21, 2002.

ADDRESSES: Nomination packages must be submitted both by mail or courier *and* electronically. Please follow the detailed instructions provided in section V of the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Carol Peterson, telephone: 202–566–1304; e-mail: *peterson.carol@epa.gov* or one of the regional contacts listed in section VI of the **SUPPLEMENTARY INFORMATION** section below. Additional information and any updated guidance will be posted on the Watershed Initiative's website at *http://www.epa.gov/owow/watershed/initative.*

SUPPLEMENTARY INFORMATION:

I. Introduction

A. The Watershed Approach

To address water resource problems more effectively, water resource managers at all levels have been adopting a more comprehensive approach—one that recognizes that the health of aquatic resources is affected by what happens on the land that drains in to a water body. A watershed can be large or small. It can encompass the entire Mississippi River basin or a small stream in western Georgia. The ''watershed approach'' addresses natural resource issues that cross geographic, jurisdictional and political boundaries. This approach recognizes needs for water supply, water quality, flood control, navigation, hydropower generation, fisheries, biodiversity, habitat preservation and recreation—and it recognizes that these needs often compete. It provides for establishing local priorities in the context of national goals, coordination of public and private actions, encouragement of partnerships to affect change, and enlists the support and knowledge base of the public at the local level.

Over the years, many communities around the country have joined forces to protect their watersheds, often using innovative and novel approaches that are geared toward solving the problems that make sense for their locality. In recent years, governments, non-profit organizations, businesses, and citizens have employed watershed-based approaches to refocus their efforts to protect and restore the nation's waters. These refocused efforts have brought positive results and attainment of State/Tribal water quality standards in some areas.

B. Goals of the Watershed Initiative

On January 25, 2002, EPA announced that it would request $21 million in its fiscal year 2003 budget for a new Watershed Initiative. Subject to the availability of appropriations, EPA will employ a competitive grant process to select up to 20 watersheds in which to award grants under this program. These grants will fund eligible activities in support of comprehensive watershed-based approaches to protecting and restoring water resources.

The Watershed Initiative will build upon the Agency's holistic watershed approach to water quality management. The Initiative will encourage coalition-based strategies for attaining water quality standards and improving water resource protection and restoration on a watershed level. EPA hopes the Initiative will encourage practical and efficient models that can be adapted to local circumstances across the country. The goal of this Initiative is to advance the successes of partnerships and coalitions that have undertaken the necessary watershed evaluations and assessments and have a technically sound watershed plan ready to carry out. EPA believes the Watershed Initiative will help encourage the kind of pro-active, incentive-based protection and restoration measures that will ultimately yield cleaner water.

C. Process for Designing the Watershed Initiative

Since January, EPA has been working with an array of people to gather ideas and suggestions on how to design the new Watershed Initiative. During the last few months, EPA has been interacting (*via* conferences, meetings, listening sessions, and speaking engagements) with States, Tribes, congressional staff, and a host of local government and community groups to: (1) Introduce the Initiative, (2) gain insight into potential challenges, and (3) solicit views on how to design the proposed program. An EPA work group was formed and consists of representatives from other offices within EPA as well as watershed experts from each of the Agency's Regional Offices. EPA held public listening sessions in Washington, DC, and published a notice and request for comments in the **Federal Register** (67 FR 36172; May 23, 2002). Sixty-eight people attended one of the four listening sessions and over 105 responded to the **Federal Register** notice. The Agency considered all of the suggestions and viewpoints in formulating the Watershed Initiative outlined in this notice.

The Agency received comments from a wide variety of interested parties, such as state agencies, county and local authorities, non-profit organizations, academia, other federal agencies, and private citizens. One letter, received from 20 commenters, expressed opposition to the Initiative in general because of the concern that the Initiative would detract from EPA's core regulatory programs. To the contrary, the Watershed Initiative is intended to support any watershed with a far-reaching, comprehensive plan, which could include a regulatory requirement, such as, EPA-approved Total Maximum Daily Loads (TMDLs).

The majority of the respondents were supportive of the Initiative and in agreement with EPA's general approach and suggested criteria. As a result of the comments received, the selection criteria were amended. The concept of a watershed being a ''high value'' resource was eliminated, and greater weight will be given to those nominations that focus on environmental results and show broad stakeholder involvement.

Of all the questions posed, commenters were most divided on whether the Governors and Tribal Leaders should submit the nominations to EPA, or whether the individual watershed organizations should be able to submit their nominations directly to EPA. EPA elected to have the Governors and Tribal Leaders make the nominations. The Agency feels strongly that in order for the Initiative to be successful, the States and Tribes must be committed to the targeted watersheds and play an active role in the Initiative.

D. Funding Availability

Subject to the availability of appropriations, $21 million will be available in FY 2003 for the Watershed Initiative. EPA expects to use the majority of the money for grants to the selected watersheds. EPA anticipates that typical grant awards for the selected watersheds will range from $300,000 to $1,300,000, depending on the amount requested and the overall size and need of the project. About five percent of the total appropriation will go toward enhancing national tools, training, and technical assistance that will help local partnerships be more effective at improving watershed health, so that watersheds which are nominated but not selected, and other watersheds, will also benefit from the Initiative. The total number and amount of the awards will depend on the amount of funds made available.

EPA expects to announce selections early in 2003 and complete the grant award process, including grant work plan negotiations through the appropriate EPA Regional Office, by May 2003. Grants awarded will be one-time awards and grant recipients should use the funds within 2–3 years. Subsequent funding would involve a new call for watershed nominations and is predicated on continued appropriations. Therefore, any proposal for work beyond the initial funding period would need to be submitted through the competitive process and will not receive preferential consideration based on the applicant's previous award.

II. Competing for a Watershed Initiative Grant

EPA will select watersheds through a national competition and will fund projects consisting of eligible activities within each plan (see section IV.C for a

description of the activities that are eligible for funding under this grant program). The size or scale of the watershed is based on the range and geographic location(s) of the problem or threat, and the projects to be undertaken to address them. Therefore, the ''watershed plan,'' in this context may be a subset of a larger and more extensive formal watershed plan. Each watershed nomination must contain only one plan, yet a plan may include a single project or multiple projects within the watershed. Preference will be given to inter-jurisdictional watershed plans, that is, those that involve multiple states and/or tribes. Watershed plans that transcend international borders may also be considered provided that the appropriate water agency in the adjacent country is a partner or otherwise supports the project. Watersheds and watershed plans will be selected based on the quality of the nominations received and adherence to the selection criteria. Funding decisions will be made based on the eligibility of the project or projects within the selected watershed plan. A full grant application will be required only for the selected watersheds (see section III).

A. The Nomination and Selection Process

Watersheds must be nominated by Governors or Tribal Leaders. Each Governor or Tribal Leader will prepare or solicit proposed watershed plans from eligible entities in a manner most appropriate to their state or tribe and nominate the most meritorious to EPA.

Governors or Tribal Leaders are invited to nominate two state or tribal watersheds each. There is, however, no limit on the number of inter-state or joint state and tribal watersheds that can be nominated. For inter-state or joint state and tribal watershed plans, any of the involved Governors/Tribal Leaders may submit the nomination. Such watershed nominations must have the endorsement of all affected state or tribal governmental entities before submittal to EPA.

Governors and Tribal Leaders are to submit their watershed nominations to EPA (see section V for the specific details). All nominations will be screened by EPA staff prior to review to determine if they are eligible, complete, and in accordance with instructions laid out in this notice. Once received by EPA, the nominations will undergo two levels of review—one at the regional level and one at the national level. Each of the Agency's Regional Offices will convene a Review and Evaluation Panel that will assess how well the overall watershed plan meets the program criteria described below. Based on the panel review and recommendation, each Regional Administrator will then forward his/her region's top four candidates to EPA's Office of Water at Headquarters. The Office of Water will convene a Technical Advisory Panel at the national level consisting of representatives from the Agency's Program and Regional Offices, as well as members of other federal agencies, to review the technical merit of the watershed plan and eligible projects and rank the watershed nominations sent forward by the EPA Regional Offices. In addition to the prescribed criteria, factors such as geographic diversity, project diversity, watershed size, urban/rural mix, and cost will be considered in ranking nominations for consideration by the Administrator. The Administrator will select the watersheds and the watershed plans to be funded.

B. Matching Requirement

EPA is requiring applicants to demonstrate a minimum non-federal match of 25% of the total cost of the project or projects. The Agency considers this matching contribution as evidence of community support and commitment, and an opportunity to increase the overall scope of the proposed project. In addition to cash, the match can come from in-kind goods and services such as the use of volunteers and their donated time, equipment, expertise, *etc.,* consistent with the regulation governing match requirements (40 CFR 31.24 or 40 CFR 30.23). Other federal funds may be used to meet the match requirement for this grant program if authorized by the statute governing the award of the other federal funds. EPA encourages applicants to leverage as much investment as possible, and those entities that exceed the minimum requirement may be preferred in the selection process (see section II.E).

Tribes and tribal watershed groups may be exempt from this match requirement if they are constrained to such an extent that fulfilling the match requirement would impose undue hardship. EPA acknowledges the limited means of many tribes and the difficulty they may have in obtaining non-federal matching contributions.

C. Format of the Nomination

In addition to a one-page cover letter signed by the Governor or Tribal Leader, the narrative portion of a single nomination should be no more than ten double-spaced pages long, using a 12-point font. The submission should be printed on one side only of an 8½′x11″ page and not bound. Each submission must include all of the required elements listed below. A nomination containing a narrative that exceeds 10 pages will not be considered. Project budgets, maps, letters of support, and match certifications may be appended and will not count toward the 10-page limit.

D. Required Elements of the Nomination

In general, nominees should provide a description of what efforts have been done thus far to carry out their watershed plan, and how the infusion of additional funds can result in a synergistic effect and results beyond the existing level of investment. In preparing nomination materials, nominees are to keep in mind the criteria by which their overall watershed plan will be judged as distinct from the individual projects that will be eligible for funding under the grant. Within these required elements, nominees should address completely and to the best of their ability the evaluation criteria outlined below in section II.E.

1. *Narrative Description.* Each nomination must contain the following components as part of the 10-page narrative portion.

(a) Characterization of the Watershed and Watershed Planning Effort

An assessment of the natural resource and environmental conditions, and an identification of problem sources and areas for treatment are required. These include:

(1) A description of the watershed's biological, physical, and, if relevant social and/or cultural characteristics.

(2) An identification of problems or threats facing the watershed.

(3) A comprehensive description of the watershed plan. This should include: (i) Short- and long-term watershed goals, (ii) identification and prioritization of the projects necessary to address the problems or threats facing the watershed; (iii) delineation of which projects that are part of the plan but are not eligible for funding; and (iv) person, or entity, who will be responsible for implementing the watershed plan.

(b) Description of the Proposed Projects

A description of the projects expected to be undertaken using the EPA grant are required. Included in this section should be:

(1) A description of the relationship of the projects to the watershed plan and goals.

(2) A detailed description of the proposed projects for EPA funding including: (i) A description of the

components and goals of the projects, (ii) a schedule for implementing the projects; (iii) the project's itemized estimated budget including any leveraging commitment; and (iv) environmental milestones for determining whether the goals of the watershed projects are being realized.

(3) A monitoring and evaluation component including performance measures and quarterly progress goals, as well as a description of how the ultimate success of the projects and watershed plan will be measured. The progress and performance of the projects and watershed plan must be measurable by technically sound practices.

(4) A description of how the projects complement or are consistent with other EPA, federal, and/or state programs or mandates.

(5) Person, or entity, who will be responsible for coordinating the proposed projects.

(c) Description of Management and Stakeholder Involvement

A description of the management, staff, supporters, and stakeholders for both the watershed plan and the proposed projects is required, including:

(1) Identification, qualifications, and past experience of the plan's leader, staff, and other active public and private partners who currently participate or are expected to participate in implementation of the watershed plan, along with a description of their specific roles and responsibilities.

(2) Identification, qualifications, and past experience of the project's leader, staff, and other active public and private partners who currently participate or are expected to participate in implementation of the proposed projects, along with a description of their specific roles and responsibilities.

(3) A description of the sources and nature of any technical expertise needed and/or obtained to carry out the projects.

(4) A description or listing of other stakeholders who may play an indirect role in the specific project or overall watershed plan.

(d) A Description of Outreach Activities

Because the selected watersheds are intended to serve as models for other communities and community projects, the following are required:

(1) A strategy for transferring the knowledge gained from this effort to other areas.

(2) A description of an information and outreach component that will be used to enhance public understanding of the watershed and encourage participation in the local project or projects, and future activities regarding implementing the goals of the watershed plan.

2. *Other Requirements.* To substantiate the information contained in the narrative portion of the submission, proof and/or documentation to verify partnerships and matching funds is required and may be submitted as appendices. Items that must accompany the narrative description include:

(a) One-page cover letter signed by the Governor or Tribal Leader.

(b) Budgets reflecting a detailed breakdown of cost by category for each project.

(c) Signed letter(s) from active partners indicating their commitment to implementing the watershed plan or for specific proposed projects.

(d) Signed letter(s) from entities committing to provide matching funds, either cash or in-kind, and the amount of equivalent value of the commitment toward the projects.

(e) For inter-state or joint nominations, signed letter(s) expressing the support of the other participating governmental entities.

(f) Maps (optional).

E. Evaluation Criteria

Watersheds will be nominated and selected based on the submitted watershed plan. Watershed nominations will be scored for each of the following four criteria for a possible total score of 50. Watershed plans that are inter-jurisdictional (*i.e.,* multi-state or state/tribe) will be awarded five points, and nominations that exceed the minimum match requirement will receive five points. Please note that the evaluation criteria focus on the overall watershed plan and not the proposed projects.

1. *Focus on Results (20 total points).* Successful nominees will have demonstrated an in-depth knowledge of the watershed ecology, presented a sound approach for combating threats or impairments to the water system, and identified a primed plan that is likely to achieve tangible, defensible environmental results in a relatively short time period. Reviewers could consider any number of components for this criterion, but will focus on the following:

(a) Watershed plan feasibility and readiness to proceed (10 points). Points will be awarded based on the overall feasibility of the plan from both a biological and engineering perspective. Reviewers also will look at the readiness of the plan and those plans that can be implemented quickly will receive more points. Plans will be evaluated on the technical merit and adequacy of each project. In sum, higher scores will be given to those nominees that have demonstrated a knowledge and understanding of priority water resource problems within the watershed; have substantially completed the assessment and planning phase of the plan; and are ready to begin.

(b) Demonstrated ability (5 points). Plans will be scored based on the qualifications and management capability of the nominee. Reviewers will assess the past experience of project leader(s) and/or partners in designing, implementing, and effectively managing and coordinating activities. Communities or organizations that have no prior experience and have developed their first watershed plan will be evaluated on the basis of their plan and their potential to effectively manage and oversee all phases of the proposed plan and demonstrated working relationship with their partners.

(c) Accountability (5 points). A nomination will be scored based on how well it is supported by a clearly articulated set of performance and progress measures, as well as a description of how these measures will be monitored. Reviewers will evaluate the plan in relation to its likelihood to achieve measurable, defensible environmental results in a relatively short time period, including attaining performance expectations, reaching project goals, and producing objective environmental results.

2. *Broad Support (10 points).* Watershed plans that incorporate a wide variety of state and local participation will be favored. The score for this criterion will be based on the level to which a nominee can demonstrate strong and diverse stakeholder stewardship and support. Reviewers will look for documented effective working relationships among state and local authorities, along with evidence of broad-based community involvement.

3. *Innovation (5 points).* Reviewers will be looking for progressive and forward-thinking plans when evaluating the nominations. Because the selected watersheds are expected to serve as models, watershed plans that undertake unique, innovative, or novel approaches to environmental problem-solving will be scored higher. Watershed plans that address regulatory challenges or provide for market-based incentives are two examples.

4. *Compatibility with other Federal or State Programs (5 points).* Reviewers will evaluate the extent to which the watershed plan and the proposed projects are linked to other existing state or federal programs. Points will be awarded to those watershed plans and

proposed projects that integrate the common goals and complement the ongoing efforts occurring at the federal, state, or local level.

III. Applying for a Grant

Only the selected watersheds need to proceed through the grant application process. Once selected to receive a grant, the successful nominee will have 60 days to complete the formal grant application process (*i.e.,* Application for Federal Assistance, Standard Form 424 *et al*). The standard EPA grants application package must be filed according to Agency guidelines. Detailed information and assistance, including an application kit, required forms, and a check list, can be found at *http://www.epa.gov/ogd/AppKit/*. Successful nominees may be asked to modify objectives, work plans, or budgets prior to the final approval of the award. The exact amount of funds to be awarded, the final scope of activities, the duration of the projects, and specific role of the EPA Regional project coordinator will be determined in pre-award negotiations between the nominee and EPA.

Although the selections will be announced at the national level, Watershed Initiative grants will be awarded and managed by the respective EPA Regional Offices. The designated EPA Regional Contact listed in section VI will be available to provide additional guidance in preparing the application, filling out the necessary forms, and answering any questions. In anticipation of this process, all applicants may want to explore this website for useful and pertinent information prior to preparing and submitting their nomination materials.

IV. Statutory and Regulatory Requirements

A. Authority

EPA expects to award most, if not all, of these grants under the authority of section 104(b)(3) of the Clean Water Act (CWA). This section authorizes the Agency to award grants to conduct and promote the coordination and acceleration of activities such as demonstrations, training, education, experiments, investigations, surveys, studies, and research relating to the causes, effect, extent, prevention, reduction, and elimination of water pollution. While the Agency plans to rely primarily on section 104 for authority to award these grants, grant projects, if eligible, could possibly be funded under the CWA authorities found in section 121 (Wet Weather Watershed Pilot Projects) or section 320 (National Estuary Program). Regulations pertaining to EPA grants are in Title 40 of the Code of Federal Regulations (CFR) parts 30, 31 and 35.

B. Eligible Applicants

Under section 104(b)(3) of the Clean Water Act, the following entities are eligible to receive grants: state and tribal water pollution control agencies, interstate or inter-tribal agencies, other public or non-profit private agencies, institutions, organizations, and individuals. The term ''State'' is defined to include the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

C. Eligible Activities

All activities must directly support the watershed plan submitted. Grants awarded under section 104(b)(3) for this Initiative may only be used to conduct and promote the coordination and acceleration of activities such as demonstrations, training, education, experiments, investigations, surveys, studies, and research relating to the causes, effect, extent, prevention, reduction, and elimination of water pollution. These activities, while not defined in the statute, advance the state of knowledge, gather information, or transfer information. For instance, ''demonstrations'' are generally projects that demonstrate new or experimental technologies, methods, or approaches and the results of the project will be disseminated so that others can benefit from the knowledge gained. The innovative compilation of individual projects to create a comprehensive approach to a watershed clean-up or protection effort could constitute a demonstration project under this authority. For example, if a watershed establishes a ten-year goal for its waters and establishes an innovative collaboration of projects and measurement tools to achieve and judge its success, replication of this approach in varying geographic locations or in a diversity of circumstances (*i.e,* rural vs. urban) could be considered a demonstration under section 104(b)(3). Research projects may include the application of established practices when they contribute to learning about an environmental concept or problem.

Other activities are eligible for funding if the grants are awarded under section 121 (Wet Weather Pilot Projects) or section 320 (National Estuary Program) of the CWA. Candidates wishing to be considered for Watershed Initiative funding under section 121 or section 320 are urged to consult the Agency prior to initiating the nomination process because the requirements for those grants are different from those discussed in this notice.

D. Project Implementation and Management

Project monitoring and reporting requirements can be found in 40 CFR 30.50–30.54 and 40 CFR 31.40–30.45. In general, grantees are responsible for managing the day-to-day operations and supported activities of the grant to assure compliance with applicable federal requirements, and for ensuring that established milestones and performance goals are being achieved. Performance reports and financial reports must be submitted quarterly and are due 30 days after the reporting period. The final report is due 90 days after the grant has expired. Grant managers should consult, and work closely with, their regional contact person throughout the award period.

If the project involves the collection of environmental data, certain quality assurance and/or quality control (QA/QC) and peer review requirements may be applicable. Applicants should allow sufficient time and resources for this process in their proposed projects. Environmental data are any measurements or information that describe environmental processes, location, or condition; ecological or health effects and consequences; or the performance of environmental technology. Environmental data also include information collected directly from measurements, produced from models, and obtained from other sources such as data bases or published literature.

Regulations pertaining to QA/QC requirements can be found in 40 CFR 30.54 and 31.45. Additional guidance can be found at *http://www.epa.gov/quality/qa_docs.html#noeparqt* or by calling the Agency's Office of Environmental Information at 202–564–6830.

V. Call for Nominations

EPA invites each Governor and Tribal Leader to submit two nominations for Watershed Initiative grants. Please send the electronic version of the nomination to *initiative.watershed@epa.gov.* No confidential business information should be sent via e-mail and only nomination materials are to be sent to this e-mail box. If unusual or extraordinary circumstances prevent electronic submission of the nomination, please contact the appropriate Regional contact person listed below to discuss alternate arrangements.

EPA requests that 2 paper copies of the full nomination package also be sent to EPA. Submissions submitted by mail should be sent to: Robert Wayland, Director, Office of Wetlands, Oceans, and Watersheds; Mail Code 4501T; USEPA; 1200 Pennsylvania Avenue NW., Washington, DC 20460. Submissions delivered by courier should be sent to: Robert Wayland, Director, Office of Wetlands, Oceans, and Watersheds; USEPA; Rm. 7130; 1301 Constitution Avenue; NW, Washington, DC 20004. Mark all submissions: ATTN: EPA Watershed Initiative.

Please direct all questions to the Regional contact person and not to the watershed initiative e-mail box. Designated Agency Contacts for each Region are listed in section VI below. All nominations must be postmarked and received electronically by EPA by the November 21, 2002 deadline. Any nomination received after the deadline will not be considered. Please note that the US Government continues to experience security-related delays in US Postal Service deliveries, so the Agency encourages courier service.

VI. Agency Contacts

Region I—Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Hampshire
Contact: William Walsh-Rogalski or Lynne Hamjian, telephones 617–918–1035 and 617–918–1601; e-mails *walshrogalski.william@epa.gov* and *hamjian.lynne@epa.gov,* respectively.

Region II—New Jersey, New York, Puerto Rico, U.S. Virgin Islands
Contact: Theresa Faber or Cyndy Belz, telephones 212–637–3844 and 212–637–3832; e-mails *faber.theresa@epa.gov* and *belz.cyndy@epa.gov,* respectively.

Region III—Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington, DC
Contact: Bernie Sarnoski, telephone 315–814–5756; e-mail *sarnoski.bernie@epa.gov.*

Region IV—Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Kentucky, Tennessee
Contact: William L. Cox, telephone 404–562–9351; e-mail *cox.williaml@epa.gov.*

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Contact: Paul Thomas, telephone 312–886–7742; e-mail *thomas.paul@epa.gov.*

Region VI—Louisiana, Texas, Oklahoma, Arkansas, New Mexico
Contact: Brad Lamb, telephone 214–665–6683; e-mail *lamb.brad@epa.gov.*

Region VII—Iowa, Kansas, Missouri, Nebraska
Contact: Julie Elfving, telephone 913–551–7475; e-mail *elfving.julie@epa.gov.*

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah
Contact: Karen Hamilton, telephone 303–312–6236; e-mail *hamilton.karen@epa.gov.*

Region IX—Arizona, California, Hawaii, Nevada, American Samoa, Mariana Islands, Guam
Contact: Sam Ziegler, telephone 415–972–3399; e-mail ziegler.sam@epa.gov.

Region X—Alaska, Idaho, Oregon, Washington
Contact: Bevin Reid, telephone 206–553–1566; e-mail *reid.bevin@epa.gov.*

Dated: August 14, 2002.

G. Tracy Mehan, III,

Assistant Administrator for Water.

[FR Doc. 02–21196 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7263–3]

Meeting of the Drinking Water Contaminant Candidate List Classification Process Working Group and Small Systems Affordability Working Group of the National Drinking Water Advisory Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given of the forthcoming meetings of the Drinking Water Contaminant Candidate List (CCL) Classification Process Work Group, and the Small Systems Affordability Work Group, of the National Drinking Water Advisory Council, established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*).

DATES: The CCL work group will meet on September 18–19, 2002 (9 a.m.–5 p.m. EDT on September 18 and 8 a.m.–3:30 p.m. EDT on September 19). The affordability work group will meet on September 11–12, 2002 (9 a.m.–5:15 p.m. EDT on September 11 and 8:30 a.m.–3:15 p.m. EDT on September 12).

ADDRESSES: Both meetings will be held at RESOLVE Inc., 1255 23rd Street, NW., Suite 275, Washington, DC and are open to the public, but from past experience, seating will likely be limited.

FOR FURTHER INFORMATION CONTACT: For more information on the location and times of these meetings, or general background information please contact the Safe Drinking Water Hotline (phone: 800–426–4791 or (703) 285–1093; e-mail: *hotline-sdwa@epa.gov*). Members of the public are requested to contact RESOLVE if they plan on attending at (202) 944–2300. Any person needing special accommodations at either of these meetings, including wheelchair access, should contact RESOLVE (contact information previously noted), at least five business days before the meeting so that appropriate arrangements can be made. For technical information contact Dr. Jitendra Saxena, Designated Federal Officer, CCL Classification Process Work Group, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4607M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (e-mail: *saxena.jitendra@epa.gov*; Tel. 202–564–5243), and Mr. Amit Kapadia, Designated Federal Officer, Small Systems Affordability Work Group at the same address (e-mail: *kapadia.amit@epa.gov*; Tel: 202–564–4879).

SUPPLEMENTARY INFORMATION:

Drinking Water Contaminants Candidate List Work Group Meeting

The CCL serves as the primary source of priority contaminants for research and regulatory evaluations for the Agency's drinking water program. The list is comprised of both chemical and microbial contaminants that are known or anticipated to occur in public water systems, and may have adverse health effects, and which at the time of publication are not subject to any proposed or promulgated National Primary Drinking Water Regulations (NPDWRs). EPA has formed a CCL Classification Process Work Group of the National Drinking Water Advisory Council (NDWAC) to help the Agency in developing a new risk based priority setting process based upon the recommendations made by the National Research Council (NRC) in its 2001 report.

The work group is comprised of recognized technical experts representing an array of backgrounds and perspectives who are as impartial and objective as possible. The purpose of the meeting is to provide advice to the NDWAC as it develops recommendations for the U.S.

Environmental Protection Agency on the classification process EPA ought to use to develop its list of candidate contaminants. The work group is charged with discussing, evaluating, and providing advice on methodologies, activities, and analysis needed to implement the National Research Council's recommendations on an expanded approach for the CCL listing process. This may include advice on developing and identifying: (1) Overall implementation strategy, (2) classification attributes and criteria, (3) pilot projects to validate new classification approaches, (4) risk communication issues, and (5) additional issues not addressed in the NRC Report.

The first meeting of the work group will be held on September 18–19, 2002, and is open to the public for observation purposes only. Statements from the public will be taken at the close of the meeting. EPA is not soliciting written comments and is not planning to formally respond to comments. The first meeting will focus on the: (1) Review of NRC recommendations for a risk based priority ranking process for CCL contaminants, (2) development of an overall implementation strategy, (3) identification of technical expertise needed to support the process, (4) formation of technical subgroups, if deemed necessary, and (5) identification and discussion of other relevant issues.

Small Systems Affordability Work Group Meeting

As part of the 2002 appropriations process, Congress directed EPA to ''begin immediately to review the Agency's affordability criteria and how small system variance and exemption programs should be implemented for arsenic'' (Conference Report 107–272, page 175). Congress further directed the Agency to prepare a report, which EPA submitted, ''on its review of the affordability criteria and the administrative actions undertaken or planned to be undertaken by the Agency, as well as potential funding mechanisms for small community compliance and other legislative actions, which, if taken by the Congress, would best achieve appropriate extensions of time for small communities while also guaranteeing maximum compliance.'' (Conference Report 107–272, page 175).

In evaluating treatment technologies for small systems, EPA currently uses an affordability threshold of 2.5% of median household income. EPA's national-level affordability criteria consist of two major components: an expenditure baseline and an affordability threshold. The expenditure baseline (derived from annual median household water bills) is subtracted from the affordability threshold (a share of median household income that EPA believes to be a reasonable upper limit for these water bills) to determine the expenditure margin (the maximum increase in household water bills that can be imposed by treatment and still be considered affordable). EPA compares the cost of treatment technologies against the available expenditure margin to determine if an affordable compliance technology can be identified. If EPA cannot identify an affordable compliance technology, then it attempts to identify a variance technology. Findings must be made at both the Federal and State level that compliance technologies are not affordable for small systems before a variance can be granted.

EPA is asking the NDWAC for advice on its national-level affordability criteria and the methodology used to establish these criteria. Taking into consideration the structure of the Safe Drinking Water Act and the limitations of readily available data and information sources, EPA is seeking the Council's opinion of the national level affordability criteria, methodology for deriving the criteria, and approach to applying those criteria to NPDWRs.

As part of the Council's review of EPA's national-level affordability criteria, the Agency is seeking input on (1) the Agency's overall approach, (2) alternatives, if any, to the use of median household income as a metric, (3) alternatives, if any, to 2.5% as a metric, (4) alternatives, if any, to calculating the expenditure baseline, (5) the usefulness of a separate criteria for ground and surface water systems, (6) including an evaluation of the potential availability of financial assistance, and (7) the need for making affordability determinations on a regional basis. Other issue areas may also be discussed. The meeting is open to the public; statements from the public will be taken at the close of the meeting. EPA is not soliciting written comments and is not planning to formally respond to comments.

Dated: August 14, 2002.

William Diamond,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 02–21200 Filed 8–19–02; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

National Environmental Policy Act Task Force

AGENCY: Council on Environmental Quality.

ACTION: Notice extending comment period.

SUMMARY: By **Federal Register** notice of July 9, 2002 (67 FR 45510–45512), the Council on Environmental Quality (CEQ) notified interested parties it had formed a National Environmental Policy Act (NEPA) task force (Task Force) and invited comment on the proposed nature and scope of NEPA Task Force activities. The Task Force seeks ways to improve and modernize NEPA analyses and documentation and foster improved coordination among all levels of government and the public, and solicits examples of effected NEPA implementation practices to develop a publication of case studies including examples of best practices.

Interested parties have requested that CEQ extend the public comment. The deadline for comments was August 23, 2002. By this notice, CEQ is extending the public comment period to September 23, 2002. Although the time for comments has been extended, CEQ requests that interested parties provide information about examples of effective NEPA implementation practices and examples of best practices as soon as possible.

DATES: Written comments should be submitted on or before September 23, 2002.

ADDRESSES: Electronic or facsimile comments are preferred because federal offices experience intermittent mail delays from security screening. Electronic written comments can be sent to the NEPA Task Force through the Web site at *http://ceq.eh.doe.gov/ntf/* which provides a form for responding to questions posed in the July 9, 2002, notice as well as a direct electronic mail link to *ceq_nepa@fs.fed.us.* Written comments may be faxed to the NEPA Task Force at (801) 517–1021. Written comments may also be submitted to the NEPA Task Force, P.O. Box 221150, Salt Lake City, UT 84122.

FOR FURTHER INFORMATION CONTACT: Rhey Solomon by phone at (202) 456–5432.

SUPPLEMENTARY INFORMATION: On July 9, 2002, CEQ published notice in the **Federal Register** requesting public comment on current NEPA implementing practices and procedures in the following areas: technology,

information management, and information security; federal and intergovernmental collaboration; programmatic and tiered analyses; and adaptive management and monitoring and evaluation plans. In addition, it was announced that the NEPA Task Force would look at other NEPA implementation issues such as the level of detail included in agencies' procedures and documentation for promulgating categorical exclusions, the utility and structure of format for environmental assessment documents, and implementation practices that would benefit other agencies.

A number of interest groups and individuals have requested that CEQ extend the public comment period. The Council believes that by extending the comment period a better collection of best practices can be assembled and greater in-depth responses will result to the questions posed in the **Federal Register** notice of July 9, 2002 (67 FR 45510–45512). Therefore, the comment period is being extended by 30 days.

Public comments are requested by September 23, 2002.

Dated: August 14, 2002.

James L. Connaughton,

Chairman, Council on Environmental Quality.

[FR Doc. 02–21038 Filed 8–19–02; 8:45 am]

BILLING CODE 3125–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

August 14, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 21, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman or Leslie Smith, Federal Communications Commission, Room 1–C804 or Room 1–A804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to *jboley@fcc.gov* or *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0962.

Title: Redesignation of the 18 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the Ka-band, and the Allocation of Additional Spectrum for Broadcast Satellite-Service Use.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 500 respondents; 538 responses.

Estimated Time Per Response: 1–4 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, on occasion reporting requirement.

Total Annual Burden: 553 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission has adopted rules that redesignate portions of the 17.7–20.2 GHz band, among the various currently allocated services in order to make more efficient use of the spectrum and to better accommodate the operational needs of licensees. The Commission proposed licensing of Fixed-Satellite Service (FSS) systems that require an amendment to the reporting requirements to include milestone certifications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–21036 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 9, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments October 21, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley Herman, Federal Communications Commission, 445 12th Street, SW., Room 1–C804, Washington, DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1014.

Title: Ku-band NGSO FSS.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 6 respondents; 28 responses.

Estimated Time Per Response: 1–4 hours.

Frequency of Response: On occasion, one-time, and annual reporting requirements.

Total Annual Burden: 84 hours.

Annual Reporting and Recordkeeping Cost Burden: $87,395.

Needs and Uses: The Commission sought and received emergency clearance of this information collection on 6/10/02. The Commission is now initiating a 60-day comment period to extend this collection with no change for the regular, three-year approval.

On April 26, 2002, the Commission adopted and released IB Docket No. 01–96, FCC 02–123. Applicants to provide NGSO FSS in the Ku-Band will be required to amend their pending applications to conform to frequency sharing methods adopted in the rulemaking. They must also submit milestone certifications, applications for blanket authorizations for multiple numbers of technically identical user earth stations, and annual reports on the status of their space station construction and launch.

The information collected during the Commission's authorization process for U.S.-licensed space station operations will be used by Commission staff in carrying out the agency's duties concerning satellite communications, as required by sections 301, 308, 309 and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 301, 308, 309, and 310.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–21037 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

August 14, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: *OMB Control No.*: 3060–0540.

Title: Tariff Filing Requirements for Nondominant Common Carriers.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,000.

Estimated Time Per Response: 10.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 21,000 hours.

Total Annual Cost: $1,260,000.

Needs and Uses: The information collected pursuant to the nondominant tariff filing rules is used to comply with Section 203 of the Communications Act of 1934, as amended, which requires that carriers file schedules indicating the rates, terms, and conditions of their service offerings. The information collected pursuant to the tariff filing requirements is used by the Commission to determine whether the rates, terms, and conditions of service offered are just and reasonable as the Act requires. These tariff filing requirements enable the Commission and the public to ensure that the service offerings of communications common carriers comply with the requirements of the Act. If the information were not filed, the Commission would not be able to carry out its responsibilities as required by the Act.

The Commission is publishing this notice to seek an extension of OMB approval under the Paperwork Reduction Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–21120 Filed 8–19–02; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The FTC is seeking public comments on its proposal to extend through December 31, 2005, the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in four product labeling rules enforced by the Commission. That clearance expires on December 31, 2002.

DATES: Comments must be filed by October 21, 2002.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Apparel Rules: Paperwork Comment.'' Comments in electronic form should be sent to *apparelpprwork@ftc.gov* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be sent to Gary Greenfield, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Ave., NW., H–576, Washington, DC 20580, (202) 326–2753.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies

must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests for requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail message directed to the following e-mail box: *apparelpprwork@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR section 4.9(b)(6)(ii).

Staff's burden estimates for the four rules in question are based on data from the Bureau of the Census, U.S. Customs and International Trade Commission, the Department of Labor, and data or other input from industry sources. The relevant information collection requirements within these rules and corresponding burden estimates follow.

1. Regulations Under the Fur Products Labelling Act, 15 U.S.C. 69 *et seq.* (''Fur Act'') (Control Number: 3084–0099)

The Fur Act prohibits misbranding and false advertising of fur products. The Fur Act Regulations, 16 CFR 301, establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing these regulations. The Regulations also provide a procedure for exemption from certain disclosure provisions under the Act.

Estimated annual hours burden: 177,000 hours, rounded to the nearest thousand (62,400 hours for recordkeeping + 114,450 hours for disclosure).

Recordkeeping: The Regulations require that retailers, manufacturers and processors, and importers keep certain records in addition to those they may keep in the ordinary course of business. Staff estimates that 1,500 retailers incur an average recordkeeping burden of about 13 hours per year (19,500 hours total); 225 manufacturers and fur processors combined incur an average recordkeeping burden of about 52 hours per year (11,700 total); and 1,200 importers of furs and fur products incur an average recordkeeping burden of 26 hours per year (31,200 hours total). The combined recordkeeping burden for the industry is approximately 62,400 hours annually.

Disclosure: Staff estimates that 1,710 respondents (210 manufacturers + 1,500 retail sellers of fur garments) each require an average of 20 hours per year to determine label content (34,200 hours total), and an average of five hours per year to draft and order labels (8,550 hours total). Staff estimates that manually attaching a label to an estimated 1,620,000 fur garments requires approximately two minutes per garment for a total of 54,000 hours annually. Thus, the total burden for labeling garments is 96,750 hours per year.

Staff estimates that the incremental burden associated with the Regulations' invoice disclosure requirement, beyond the time that would be devoted to preparing invoices in its absence, is approximately 30 seconds per invoice.[1] The invoice disclosure requirement applies to fur garments, which are generally sold individually, and fur pelts, which are generally sold in groups of at least 50, on average. Assuming invoices are prepared for sales of 1,620,000 garments and 160,000 groups (an estimated 8 million pelts ÷ 50) each of imported and domestic pelts, the invoice disclosure requirement entails an estimated total burden of 16,167 hours.

Staff estimates that the Regulations' advertising disclosure requirements impose an average burden of one hour per year for each of the approximately 1,500 domestic fur retailers, or a total of 1,500 hours.

Thus, staff estimates the total disclosure burden to be approximately 114,450 hours (96,750 hours for labeling + 16,167 hours for invoices + 1,500 hours for advertising).

Estimated annual cost burden: $2,303,000, rounded to the nearest thousand (solely relating to labor costs).

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$20.00	34,200	$684,000
Draft and order labels	13.00	8,550	111,150
Attach labels	[2] 8.50	54,000	459,000
Invoice disclosures	13.00	16,167	210,171
Prepare advertising disclosures	18.00	1,500	27,000
Recordkeeping	13.00	62,400	811,200
Total	.....	.....	2,302,521

Staff believes that there are no current start-up costs or other capital costs associated with the Regulations. Because the labeling of fur products has been in integral part of the manufacturing process for decades,

[1] The invoice disclosure burden for PRA purposes excludes the time the respondents would spend for invoicing, apart from the Fur Act Regulations, in the ordinary course of business, *See* 5 CFR 1320.3(b)(2).

[2] Per industry sources, most fur labeling is done in the U.S., and this rate is reflective of an average domestic hourly wage for such tasks. Conversely, attaching labels with regard to the other regulations discussed herein is mostly performed by foreign labor, as detailed in note 3.

manufacturers have in place the capital equipment necessary to comply with the Regulations' labeling requirements. Industry sources indicate that much of the information required by the Fur Act and its implementing Regulations would be included on the product label even absent the regulations. Similarly, invoicing, recordkeeping, and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Act or the Regulations.

2. Regulations Under the Wool Products Labeling Act, 15 U.S.C. 68 *et seq.* (''Wool Act'') (Control Number: 3084–0100)

The Wool Act prohibits misbranding of wool products. The Wool Act Regulations, 16 CFR 300, establish disclosure requirements that assist consumers in making informed purchasing decisions and recordkeeping requirements that assist the Commission in enforcing the Regulations.

Estimated annual hours burden: 556,000 hours, rounded to the nearest thousand (125,000 recordkeeping hours + 430,556 disclosure hours).

Recordkeeping: Staff estimates that approximately 5,000 wool firms are subject to the Regulations' recordkeeping requirements. Based on an average annual burden of 25 hours per firm, the total recordkeeping burden is 125,000 hours.

Disclosure: Approximately 10,000 wool firms, producing or importing about 500,000,000 wool products annually, are subject to the Regulations' disclosure requirements. Staff estimates the burden of determining label content to be 20 hours per year per respondent, or a total of 200,000 hours, and the burden of drafting and ordering labels to be 5 hours per respondent per year, or a total of 50,000 hours. Staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 35 percent of all affected products. For the remaining 325,000,000 items (65 percent of 500,000,000), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 180,556 hours per year. Thus, the total estimated annul burden for all respondents is 430,556 hours. Staff believes that any additional burden associated with advertising disclosure requirements would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated annual cost burden: $6,817,000, rounded to the nearest thousand (solely relating to labor costs).

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$20.00	200,000	$4,000,000
Draft and order labels	13.00	50,000	650,000
Attach labels	[3]3.00	180,556	$541,668
Recordkeeping	13.00	125,000	1,625,000
Total	.....	.....	6,816,668

Staff believes that there are no current start-up costs or other capital costs associated with the Regulations. Because the labeling of wool products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Regulations. Based on knowledge of the industry, staff believes that much of the information required by the Wool Act and its implementing regulations would be included on the product label even absent their requirements. Similarly, recordkeeping and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Regulations.

3. Regulations Under the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.* (''Textile Act'') (Control Number: 3084–0101)

The Textile Act prohibits misbranding and false advertising of textile fiber products. The Textile Act Regulations, 16 CFR 303, establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the regulations. The Regulations also contain a petition procedure for requesting the establishment of generic names for textile fibers.

Estimated annual hours burden: Approximately 7,547,000 hours, rounded to the nearest thousand (537,500 recordkeeping hours +7,009,722 disclosure hours).

Recordkeeping: Staff estimates that approximately 21,500 textile firms are subject to the Textile Regulations' recordkeeping requirements. Based on an average burden of 25 hours per firm, the total recordkeeping burden is 537,500 hours.

Disclosure: Approximately 31,500 textile firms, producing or importing about 17.2 billion textile fiber products annually, are subject to the Regulations' disclosure requirements.[4] Staff estimates the burden of determining label content to be 20 hours per year per respondent, or a total of 630,000 hours and the burden of drafting and ordering labels to be 5 hours per respondent per year, or a total of 157,500 hours. Staff believes that the process of attaching labels is now fully automated and integrated into other production steps

[3] For products that are imported, this work generally is done in the country where they are manufactured. According to information compiled by an industry trade association using data from the International Trade Commission, the U.S. Customs Service, and the U.S. Census Bureau, approximately 90% of apparel and other textile products used in the United States is imported. With the remaining 10% attributable to U.S. production at an approximate domestic hourly wage of $8.50 to attach labels, staff has calculated a weighted average hourly wage of $3 per hour attributable to U.S. and foreign labor combined. The estimated percentage of imports supplied by particular countries is based on trade data for 2001 compiled by the Office of Textiles and Apparel, International Trade Administration, U.S. Department of Commerce. Wages in major textile exporting countries, factored into the above hourly wage estimate, were based on data published in February 2000 by the U.S. Department of Labor, Bureau of International Labor Affairs. (See ''Wages, Benefits, Poverty Line, and Meeting Workers' Needs in the Apparel and Footwear Industries of Selected Countries,'' Table I–2: ''Prevailing or Average Wages in the Manufacturing Sector and in the Footwear and Apparel Industries in Selected Countries, Latest Available Year'').

[4] The apparent consumption of garments in the U.S. in 2001 was 15.2 billion. Staff estimates that .5 billion garments are exempt from the Textile Act (*i.e.,* any kind of headwear and garments made from something other than a textile fiber product, such as leather) or are subject to a special exemption for hosiery products sold in packages where the label information is contained on the package. Based on available data, staff estimates that an additional 3 billion household textile products (non-garments, such as sheets, towels, blankets) were consumed. However, approximately .5 billion of all of these combined products (garments and non-garments) are subject to the Wool Products Labeling Act, not the Textile Fiber Products Identification Act, because they contain some amount of wool. Thus, the estimated net total products subject to the Textile Fiber Products Identification Act is 17.2 billion.

for about 35 percent of all affected products. For the remaining 11.2 billion items (65 percent of 17.2 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 6,222,222 hours per year. Thus, the total estimated annual burden for all respondents is 7,009,722 hours. Staff believes that any additional burden associated with advertising disclosure requirements or the filing of generic fiber name petitions would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated annual cost burden: $40,302,000, rounded to the nearest thousand (solely relating to labor costs).

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$20.00	630,000	$12,600,000
Draft and order labels	13.00	157,500	2,047,500
Attach labels	[5] 3.00	6,222,222	18,666,666
Recordkeeping	13.00	537,500	6,987,500
Total	.....	.....	40,301,666

Staff believes that there are no current start-up costs or other capital costs associated with the Regulations. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Regulations' labeling requirements. Industry sources indicate that much of the information required by the Textile Act and its implementing rules would be included on the product label even absent their requirements. Similarly, recordkeeping, invoicing, and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Regulations.

4. The Care Labeling Rule, 16 CFR Part 423 (Control Number: 3094–0103)

The Care Labeling Rule, 16 CFR Part 423, requires manufacturers and importers to attach a permanent care label to all covered textile clothing in order to assist consumers in making purchase decisions and in determining what method to use to clean their apparel. Also, manufacturers and importers of piece goods used to make textile clothing must provide the same care information on the end of each bolt or roll of fabric.

Estimated annual hours burden: 6,054,000 hours, rounded to the nearest thousand (solely relating to disclosure.[6])

Staff estimates that approximately 16,500 manufacturers or importers of textile apparel, producing about 15.2 billion textile garments annually, are subject to the Rule's disclosure requirements. The burden of developing proper care instructions may vary greatly among firms, primarily based on the number of different lines of textile garments introduced per year that require new or revised care instructions. Staff estimates the burden of determining care instructions to be 43 hours each year per respondent, for a cumulative total of 709,500 hours. Staff further estimates that the burden of drafting and ordering labels is 2 hours each year per respondent, for a total of 33,000 hours. Staff believes that the process of attaching labels is fully automated and integrated into other production steps for about 35 percent of the approximately 14.7 billion garments that are required to have care instructions on permanent labels.[7] For the remaining 9.56 billion items (65 percent of 14.7 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 5,311,100 hours per year. Thus, the total estimated annual burden for all respondents is 6,053,600 hours.

Estimated annual cost burden: $30,552,000, rounded to the nearest thousand (solely relating to labor costs).

Task	Hourly rate	Burden hours	Labor cost
Determine care instructions	$20.00	709,500	$14,190,000
Draft and order labels	13.00	33,00	429,000
Attach labels	[8] 3.00	5,311,100	15,933,300
Total	.....	.....	30,552,300

Staff believes that there are no current start-up costs or other capital costs associated with the Rule. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rule's labeling requirements. Based on knowledge of the industry, staff believes that much of the information required by the Rule would be included on the product label even absent those requirements.

William E. Kovacic,

General Counsel.

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BILLING CODE 6750–01–M

[5] See note 3.

[6] The Care Labeling Rule imposes no specific recordkeeping requirements. Although the Rule requires manufacturers and importers to have reliable evidence to support the recommended care instructions, companies may provide as support current technical literature or rely on past experience.

[7] About .5 billion of the 15.2 billion garments produced annually are either not covered by the Care Labeling Rule (gloves, hats, caps, and leather, fur, plastic, or leather garments) or are subject to an exemption that allows care instructions to appear on packaging (hosiery).

[8] See note 3.

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The Federal Trade Commission is seeking public

comments on its proposal to extend through December 31, 2005 the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in four consumer credit regulations enforced by the Commission. That clearance expires on December 31, 2002.

DATES: Comments must be filed by October 21, 2002.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Regs BEMZ: Paperwork Comment.'' Comments in electronic form should be sent to: *RegsBEMZpprwork@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Carole Reynolds, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3230.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *RegsBEMZpprwork@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR section 4.9(b)(6)(ii)).

The four rules covered by this notice are:

(1) Regulations promulgated under The Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.* (''ECOA'') (''Regulation B'') (Control Number: 3084–0087);

(2) Regulations promulgated under The Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.* (''EFTA'') (''Regulation E'') (Control Number: 3084–0085);

(3) Regulations promulgated under The Consumer Leasing Act, 15 U.S.C. 1697 *et seq.* (''CLA'') (''Regulation M'') (Control Number: 3084–0086);

(4) Regulations promulgated under The Truth-In-Lending Act, 15 U.S.C. 1601 *et seq.* (''TILA'') (''Regulation Z'') (Control Number: 3084–0088);

Each of these four rules impose certain PRA recordkeeping and disclosure requirements associated with providing credit or with other financial transactions. All of these rules require covered entities to keep certain records. Staff believes that these entities would likely retain these records in the normal course of business even absent the recordkeeping requirement in the rules.[1] There is, however, some burden associated with ensuring that covered entities do not prematurely dispose of relevant records during the period of time required by the applicable rule.

Disclosure requirements involve both set-up and monitoring costs as well as certain transaction-specific costs. ''Set-up'' burden, incurred by new entrants only, includes identifying the applicable disclosure requirements, determining compliance obligations, and designing and developing compliance systems and procedures. ''Monitoring'' burden, incurred by all covered entities, includes reviewing revisions to regulatory requirements, revising compliance systems and procedures as necessary, and monitoring the ongoing operation of systems and procedures to ensure continued compliance. ''Transaction-related'' burden refers to the effort associated with providing the various required disclosures in individual transactions. While this burden varies with the number of transactions, the figures shown for transaction-related burden in the tables that follow are estimated averages.

The actual range of compliance burden experienced by covered entities, and reflected in those averages, varies widely. Depending on the extent to which covered entities have developed automated systems and procedures for providing the required disclosures, and the efficacy of those systems and procedures, some entities may have little or no such burden, while others incur a higher burden.[2]

Calculating the burden associated with the four regulations' disclosure requirements is very difficult because of the highly diverse group of affected entities. The ''respondents'' included in the following burden calculations consist of credit and lease advertisers, creditors, financial institutions, service providers, certain government agencies and others involved in delivering electronic fund transfers of government benefits, and lessors. The burden estimates represent staff's best assessment, based on its knowledge and expertise relating to the financial services industry. To derive these estimates, staff considered the wide variations in covered entities: (1) Size and location; (2) credit or lease products offered, extended, or advertised, and their particular terms; (3) types of electronic fund transfers (EFTs) used; (4) types and occurrences of adverse actions; (5) types of appraisal reports utilized; and (6) automation with regard to compliance operations.

In some instances, where covered entities may make certain required disclosures in the ordinary course of business, the Regulation imposes no PRA burden. In addition, some entities have developed highly automated means of providing the required disclosures, while others rely on methods requiring more manual effort.

The estimated PRA burden associated with these rules, attributable to the Commission, is less today than in the past. Staff believes that as automation and expanded quality control become more pervasive in the financial services

[1] PRA ''burden'' does not include effort expended in the ordinary course of business, regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

[2] For example, large retailers may use automated means to provide required disclosures, such as issuing, en masse, notices of changes of terms. Smaller retailers and certain types of creditors may have less automated compliance systems, and thus may issue disclosures on an individual transaction basis, resulting in higher burden.

industry, entities are able to comply more efficiently.

The cost estimates shown below relate solely to labor costs. The applicable PRA requirements impose minimal capital or other non-labor costs, as affected entities generally have the necessary equipment for other business purposes. Similarly, staff estimates that compliance with these rules entails minimal printing and copying costs beyond that associated with documenting financial transactions in the ordinary course of business. The burden estimates shown below include the time necessary to train staff to be in compliance with the regulations.

The following paragraphs discuss each of these rules, their particular FRA requirements, and staff's best estimates of the related hour and cost burdens.

1. Regulation B

The ECOA prohibits discrimination in the extension of credit. Regulation B, 12 CFR 202, promulgated by the Board of Governors of the Federal Reserve System, establishes both recordkeeping and disclosure requirements to assist consumers in understanding their rights under the ECOA and to assist in detecting unlawful discrimination. The FTC enforces the ECOA as to all creditors except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 2,500,000 hours, rounded to the nearest thousand (1,150,000 recordkeeping hours – 1,409,499 disclosure hours).

Recordkeeping: FTC staff estimates that Regulation B's general recordkeeping requirements affect 1,000,000 credit firms subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 1,000,000 hours. Staff also estimates that the requirement that creditors monitor information about race/national original, sex, age, and marital status imposes a maximum burden of one minute each [3] for approximately nine million credit applications (based on industry data regarding the approximate number of mortgage purchase and refinance originations), for a total of 150,000 hours. The total estimated recordkeeping burden is 1,150,000 hours.

Disclosure: Regulation B requires that creditors (*i.e.,* entities that regularly participate in the decision whether to extend credit under Regulation B) provide notices whenever they take adverse action. The Regulation also requires entities that extend various types of mortgage credit to provide a copy of the appraisal report to applicants and to notify them of their right to a copy of the report.

Regulation B applies to retailers, mortgage lenders, mortgage brokers, finance companies, Internet businesses, and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.

Disclosure	Setup/monitoring [1]			Transaction-related [2]			Total burden (hours)
	Respondents	Average burden per respondent (hours)	Total setup/monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	
Adverse action notices	1,000,000	.5	500,000	200,000,000	.25	833,333	1,333,333
Appraisal notices	22,000	.5	11,000	6,500,000	.25	27,083	38,083
Appraisal reports	22,000	.5	11,000	6,500,000	.25	27,083	38,083
Total							1,409,499

[1] With respect to appraisal notices and appraisal reports, the above figures assume that approximately half of applicable mortgage entities (.5 x 44,000, or 22,000 businesses) would not otherwise provide this information and thus would be affected.

[2] The above figures assume that half of applicable mortgage transactions (.5 x 13,000,000, or 6,500,000) would not otherwise provide the appraisal notices and reports and thus would be affected.

Estimated annual cost burden: $46,418,000, rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: Staff estimates that the general recordkeeping responsibility of one hour per creditor would involve approximately 90 percent clerical time and 10 percent skilled technical time. Keeping records of race/national origin, sex, age, and maritial status requires an estimated one minute of skilled technical time. As shown below, the total recordkeeping cost is $14,000,000.

Disclosure: For each notice or information item listed, staff estimates that the burden hours consist of 10 percent managerial time and 90 percent skilled technical time. As shown below, the total disclosure cost is $32,418,500.

Required task	Managerial		Skilled technical		Clerical		Total cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
General Recordkeeping	0	0	100,000	$2,000,000	900,000	$9,000,000	$11,000,000
Other Recordkeeping	0	0	150,000	3,000,000	0	0	3,000,000
Total Recordkeeping							14,000,000
Adverse action notices	133,333	$6,666,650	1,200,000	24,000,000	0	0	30,666,650
Appraisal notices	3,808	190,400	34,275	685,500	0	0	875,900
Appraisal reports	3,808	190,400	34,275	685,500	0	0	875,900

[3] Regulation B contains a model form the creditors may use to gather and retain the required information.

Required task	Managerial		Skilled technical		Clerical		Total cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Total Disclosure							32,418,500
Total Recordkeeping and Disclosure							46,418,450

2. Regulation E

The EFTA requires accurate disclosure of the costs, terms, and rights relating to electronic fund transfer (EFT) services to consumers. Regulation E, 12 CFR 205, promulgated by the Board of Governors of the Federal Reserve System, establishes both recordkeeping and disclosure requirements applicable to entities providing EFT services to consumers. The FTC enforces the EFTA as to all entities providing EFT services except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 3,580,000 hours (500,000 recordkeeping hours + approximately 3,080,000 disclosure hours).

Recordkeeping: Staff estimates that Regulation E's recordkeeping requirements affect 500,000 firms offering EFT services to consumers and subject to the Commission's jurisdiction, at an average burden of one hour per firm, for a total of 500,000 hours.

Disclosure: Regulation E applies to financial institutions (including certain retailers and electronic commerce entities), service providers, various federal and state agencies offering electronic fund transfers (EFTs), and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.

Disclosure	Setup/monitoring			Transaction-related			Total burden (hours)
	Respondents	Average burden per respondent (hours)	Total setup/ monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	
Initial terms	100,000	.5	50,000	1,000,000	.02	333	50,333
Change in terms	25,000	.5	12,500	33,000,000	.02	11,000	23,500
Periodic statements	100,000	.5	50,000	1,200,000,00	.02	400,000	450,000
Error resolution	100,000	.5	50,000	1,000,000	5	83,333	133,333
Transaction receipts	100,000	.5	50,000	5,000,000,000	.02	1,666,667	1,716,667
Preauthorized transfers	500,000	.5	250,000	1,000,000	.25	4,167	254,167
Service provider notices	100,000	.25	25,000	1,000,000	.25	4,167	29,167
Govt. benefit notices	10,000	.5	5,000	100,000,000	.25	416,667	421,667
ATM notices [1]	500	.25	125	250,000	.25	1,041	1,166
Total							3,080,000

[1] Starting in 2001, ATM operators were required to provide certain notices to consumers regarding ATM fees. Generally, these notices must be provided on or at ATM machines and/or on paper before the consumer is committed to paying a fee.

Estimate annual cost burden: $76,240,000, rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: For the 500,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is $5,500,000.

Disclosure: For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial time and 90 percent require skilled technical time. As shown below, the total disclosure cost is $70,740,000.

Required task	Managerial		Skilled technical		Clerical		Total cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Recordkeeping	0	$0	50,000	$1,000,000	450,000	$4,500,000	$5,500,000
Disclosure:							
Initial terms	5,033	$251,650	45,300	$906,000	0	$0	$1,157,650
Change in terms	2,350	117,500	21,150	423,000	0	0	540,500
Periodic statements	45,000	2,250,000	405,000	8,100,000	0	0	10,350,000
Error resolution	13,333	666,650	120,000	2,400,000	0	0	3,066,650
Transaction receipts	171,667	8,583,350	1,540,000	30,800,000	0	0	39,383,350
Preauthorized transfers	25,417	1,270,850	228,750	4,575,000	0	0	5,845,850
Service provider notices	2,917	145,850	26,250	525,000	0	0	670,850
Govt. benefit notices	42,167	2,108,350	379,500	7,590,000	0	0	9,698,350
ATM Notices	116	5,800	1,050	21,000	0	0	26,800

Required task	Managerial		Skilled technical		Clerical		Total cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Total Disclosure							70,740,000
Total Recordkeeping and Disclosures							76,240,000

3. Regulation M

The CLA requires accurate disclosure of the costs and terms of leases to consumers. Regulations M, 12 CFR 213, promulgated by the Board of Governors of the Federal Reserve System, establishes disclosure requirements that assist consumers in comparison shopping and in understanding the terms of leases and recordkeeping requirements that assist enforcement of the CLA. The FTC enforces the CLA as to all lessors and advertisers except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 279,000 hours, rounded to the nearest thousand (150,000 recordkeeping hours + 129,167 disclosure hours).

Recordkeeping: Staff estimates that Regulation M's recordkeeping requirements affect approximately 150,000 firms leasing products to consumers and subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 150,000 hours.

Disclosure: Regulation M applies to automobile lessors (such as auto dealers, independent leasing companies, and manufacturers' captive finance companies), computer lessors (such as computer dealers and other retailers), furniture lessors, various electronic commerce lessors, and diverse types of lease advertisers, and others. Below is staff's best estimate of burden applicable to his highly broad spectrum of covered entities.

Disclosure	Setup/Monitoring			Transaction-related			Total burden (hours)
	Respondents	Average burden per respondent (hours)	Total setup/monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	
Auto Leases[1]	50,000	.75	37,500	2,500,000	.50	20,833	58,333
Other Leases[2]	100,000	.50	50,000	1,000,000	.25	4,167	54,167
Advertising	25,000	.50	12,500	1,000,000	.25	4,167	16,667
Total							129,167

[1] This category focuses on consumer vehicle leases. Vehicle leasing has decreased in the past two years. Vehicle leases are subject to more lease disclosure requirements (pertaining to computation of payment obligations) than other lease transactions. (Only consumer leases for more than four months are covered.) See 15 U.S.C. 1667(1); 12 CFR 213.2(e)(1).

[2] This category focuses on all types of consumer leases other than vehicle leases. It includes leases for computers, other electronics, small appliances, furniture, and other transactions. (Only consumer leases for more than four months are covered.) See 15 U.S.C. 1667(1); 12 CFR 213.2(e)(1).

Estimated annual cost burden: $4,621,000, rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: For the 150,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping costs is $1,650,000.

Disclosure: For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial time and 90 percent require skill technical time. As shown below, the total disclosure cost is $2,970,850.

Required task	Managerial		Skilled technical		Clerical		Total cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost ($10/hr.)	
Recordkeeping	0	$0	15,000	$300,000	135,000	$1,350,000	$1,650,000
Disclosures							
Auto Leases	5,833	$291,650	52,500	$1,050,000	0	$0	$1,341,650
Other Leases	5,417	270,850	48,750	975,000	0	0	1,245,850
Advertising	1,667	83,350	15,000	300,000	0	0	383,350
Total Disclosures							2,970,850
Total Recordkeeping and Disclosures							4,620,850

4. Regulation Z

The TILA was enacted for foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers. Regulation, Z, 12 CFR 226, promulgated by the Board of Governors of the Federal Reserve System, establishes both recordkeeping and disclosure requirements to assist consumers and the enforcement of the TILA. The FTC enforces the TILA as to all creditors and advertisers except those that are subject to the regulatory authority of another federal agency (such as federally chartered or insured depository institutions).

Estimated annual hours burden: 20,179,000 hours, rounded to the nearest thousand (1,000,000 recordkeeping hours + 19,178,749 disclosure hours).

Recordkeeping: FTC staff estimates that Regulation Z's recordkeeping requirements affect approximately 1,000,000 firms offering credit and subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 1,000,000 hours.

Disclosure: Regulation Z disclosure requirements pertain to open-end and closed-end credit. The Regulation applies to retailers (such as department stores, appliance stores, discount retailers, medical-dental service providers, home improvement sellers, and electronic commerce retail operators); mortgage companies; finance companies; credit advertisers; auto dealerships; student loan companies; home fuel or power services (for furnaces, stoves, microwaves, and other heating, cooling or residential power equipment); credit advertisers; and others. Below is staff's best estimate of burden applicable to this highly broad spectrum of covered entities.

Disclosure [1]	Setup/monitoring			Transaction-related			Total burden (hours)
	Respondents	Average burden per respondent (hours)	Total setup/monitoring burden (hours)	Number of transactions	Average burden per transaction (minutes)	Total transaction burden (hours)	
Open-end credit:							
Initial terms	100,000	.5	50,000	50,000,000	.25	208,333	258,333
Rescission notices	10,000	.5	5,000	100,000	.25	417	5,417
Change in terms	25,000	.5	12,500	136,000,000	.125	283,333	295,833
Periodic statements	100,000	.5	50,000	4,800,000,000	.0625	5,000,000	5,050,000
Error resolution	100,000	.5	50,000	10,000,000	5	833,333	883,333
Credit and charge card accounts	100,000	.5	50,000	50,000,000	.25	208,333	258,333
Home equity lines of credit	10,000	.5	5,000	5,000,000	.25	20,833	25,833
Advertising	250,000	.25	62,500	700,000	.5	5833	68,333
Closed-end credit:							
Credit disclosures	800,000	.50	400,000	330,000,000	2	11,000,000	11,400,000
Rescission notices	100,000	.50	50,000	34,000,000	1	566,667	616,667
Variable rate mortgages	75,000	.50	37,500	1,800,000	2	60,000	97,500
High rate/high fee mortgages	50,000	.50	25,000	750,000	2	25,000	50,000
Reverse mortgages	50,000	.50	25,000	150,000	1	2,500	27,500
Advertising	500,000	.25	125,000	1,000,000	1	16,667	141,667
Total open-end credit							6,845,415
Total closed-end credit							12,333,334
Total credit							19,178,749

[1] In some areas, e.g., home equity lines of credit, companies have merged, changed their business focus, and/or have shifted that focus into areas not under the FTC's jurisdiction. Accordingly, staff's estimates account for a reduced number of respondents in these areas. Moreover, computer technology has further facilitated the disclosure process thereby lessening the average burden per respondent, particularly with regard to setup and monitoring.

Estimated annual cost burden: $452,111,000, rounded to the nearest thousand.

Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below ($50 for managerial or professional time, $20 for skilled technical time, and $10 for clerical time) are averages.

Recordkeeping: For the 1,000,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is $11,000,000.

Disclosure: For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial time and 90 percent require skilled technical time. As shown below, the total disclosure cost is $441,111,200.

Required task	Managerial		Skilled Techincal		Clerical		Total cost ($)
	Time (hours)	Cost ($50/hr.)	Time (hours)	Cost ($20/hr.)	Time (hours)	Cost (10/hr.)	
Recordkeeping	0	$0	100,000	$2,000,000	900,000	$9,000,000	$11,000,000
Open-end credit Disclosures:							
Initial terms	25,833	$1,291,650	232,500	$4,650,000	0	$0	$5,941,650
Rescission notices	542	$27,100	4,875	$97,500	0	$0	$124,600
Change in terms	29,583	$1,479,150	266,250	$5,325,000	0	$0	$6,804,150
Periodic statements	505,000	$25,250,000	4,545,000	$90,900,000	0	$0	$116,150,000
Error resolution	88,333	$4,416,650	795,000	15,900,000	0	$0	$20,316,650
Credit and charge card accounts	25,833	$1,291,650	232,500	$4,650,000	0	$0	$5,941,650
Home equity lines of credit	2,583	$129,150	23,250	$465,000	0	$0	$594,150
Advertising	6,833	$341,650	61,500	$1,230,000	0	$0	$1,571,650
Total open-end credit							$157,444,500
Closed-end credit Disclosures:							
Credit disclosures	1,140,000	$57,000,000	10,260,000	$205,200,000	0	$0	$262,200,000
Rescission notices	61,667	$3,083,350	555,000	$11,100,000	0	$0	$14,183,350
Variable rate mortgages	9,750	$487,500	87,750	$1,755,000	0	$0	$2,242,500
High rate/high fee mortgages	5,000	$250,000	45,000	$900,000	0	$0	$1,150,000
Reverse mortgages	2,750	$137,500	24,750	$495,000	0	$0	$632,500
Advertising	14,167	$708,350	127,500	$2,550,000	0	$0	$3,258,350
Total closed-end credit							$283,666,700
Total Disclosures							$441,111,200
Total Recordkeeping and Disclosures							$452,111,200

William E. Kovacic,

General Counsel.

[FR Doc. 02–21117 Filed 8–19–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Docket No. 9299]

MSC.Software Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations the complaint previously issued and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Joe Simons, or Richard Dagen, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3667 or (202) 326–2628.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 3.25(f) of the Commission's rules of practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 14, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/08/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.*

Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with MSC.Software Corporation (''MSC'') to resolve matters charged in an Administrative Complaint issued by the Commission on October 9, 2001. The Agreement has been placed on the public record for thirty (30) days for receipt of comments from interested members of the public. The Agreement is for settlement purposes only and does not constitute an admission by MSC that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Commission's Complaint

The Complaint alleged that Respondent MSC.Software Corporation (''MSC'') unlawfully acquired Universal Analytics, Inc. (''UAI'') and Computerized Structural Analysis and Research Corporation (''CSAR'') in 1999 in violation of section 7 of the Clayton Act and section 5 of the FTC Act. The Complaint alleged that the acquisitions may substantially lessen competition or lead to a monopoly in the market for advanced versions of Nastran, a public domain engineering simulation software program. Neither acquisition had been reportable under the Hart-Scott-Rodino reporting thresholds, 15 U.S.C. 18a.

MSC is the largest supplier of computer-aided engineering simulation software in the world. In 2001, its annual worldwide revenue was $236 million. MSC has an estimated 1350 employees located around the world. MSC has grown substantially through acquisitions, having acquired six other engineering software vendors or resellers since 1998. MSC is a publicly-traded company.

The Complaint alleged that MSC, UAI, and CSAR had long been vigorous competitors, each offering an advanced version of Nastran to customers in the aerospace, automotive and other industries. These competing versions of advanced Nastran all derived from a program originally developed by NASA and placed into the public domain. The common origin of these three advanced Nastran versions made switching between them relatively easy. For these reasons, UAI Nastran and CSAR Nastran were close substitutes for MSC.Nastran. Non-Nastran solvers, however, were more distant substitutes. The Complaint alleged that competition among the three advanced Nastran suppliers helped to hold down prices and to promote product innovation.

The Complaint further alleged that MSC was the dominant supplier of advanced versions of Nastran, with an estimated 90 percent of worldwide Nastran revenue. Prior to MSC's acquisitions, UAI and CSAR were the only other firms offering advanced versions of Nastran. They held substantially smaller market shares. Each had about five percent of worldwide advanced Nastran revenues.

The Complaint alleged that the acquisitions were anticompetitive because they increased the level of concentration in already highly concentrated markets. The Complaint further charged that the acquisitions eliminated competition on price and product development and enhancements, created or enhanced MSC's power to raise prices above a competitive level or to withhold or delay product development and enhancements, and prevented the increased competition that MSC expected if other suppliers of engineering software were to acquire UAI and CSAR. Even if other solvers offering advanced analysis capabilities were included in the market, the markets remain highly concentrated and the acquisitions anticompetitive. The Complaint also alleged that MSC's acquisitions were unlawful in separate markets that exist for specific industries or customer categories. According to the Complaint, the appropriate geographic market in which to analyze MSC's acquisitions is the world, although a U.S. market may also exist.

The Complaint also alleged that MSC's acquisitions constitute unlawful monopolization and an attempt to monopolize in violation of section 5 of the FTC Act. It further alleged that MSC's dominant market share prior to and after the acquisitions satisfied the showing required for monopoly power and dangerous probability of success. Moreover, the Complaint alleged that MSC acted willfully and with the specific intent to obtain and maintain a monopoly in the market for advanced versions of advanced Nastran when it made the acquisitions.

The Complaint further charged that entry is not likely, nor, if it did occur, would it likely be timely or sufficient to prevent the anticompetitive effects of the acquisitions.

II. Terms of the Proposed Consent Order

The proposed Order would provide relief for the alleged anticompetitive effects of the acquisitions principally by means of a divestiture intended to restore competition. In addition, the proposed Order contains further provisions intended to facilitate the restoration of competition.

Divestiture. The principal relief under the proposed Order is to require the Respondent to divest, within 150 days after entry of the Order and up to two acquirers to be approved by the Commission, perpetual, worldwide, royalty-free, and non-exclusive licenses to the key intellectual property needed by a new competitor to compete in the sale and licensing of advanced Nastran software. ¶ II.A. The licensed intellectual property rights would consist of the version of MSC.Nastran that is most current as of the date that the Consent Agreement is accepted for public comment by the Commission, as well as all the intellectual property rights acquired by MSC in the two challenged acquisitions. ¶ I.L.1

The licenses would permit the acquirer (or acquirers) to use the licensed rights to sell advanced Nastran software, sublicense others without restriction, and prepare derivative works so as to further develop and enhance the software without further remuneration to MSC once the divestiture is completed. the licenses granted would be non-exclusive, meaning that MSC would continue to retain full rights itself to the licensed intellectual property. ¶ II.A. The basic approach reflected in the settlement, therefore, is to replicate in the hands of the acquirer(s) the crucial intellectual property held by MSC in the aftermath of the challenged acquisitions.

The Order language providing for divestiture ''up to two'' acquirers tracks the language of the Notice of Contemplated Relief accompanying the Complaint. It reflects MSC's removal of two independent competitors from the marketplace through the challenged acquisitions. The language is intended to leave open to the Commission the option of requiring that two competitors be re-established.

Purpose. Paragraph II.C. of the proposed Order contains a recitation of the Commission's purpose in ordering the divestiture. That provision recites that the purpose of the divestiture is to remedy the lessening of competition alleged in the complaint by establishing one or more viable and effective competitors to MSC engaged in the sale, distribution and licensing of advanced Nastran software for use by customers,

including customer sin the aerospace and automotive industries, and with the ability to engage in further development and enhancement of advanced Nastran software. It states that, in determining whether the licensing of more than one acquirer may be required, or whether to approve the grant of a license to a particular prospective acquirer, the Commission will consider, among other things, the likely future capability of the prospective acquirer or acquirers to provide effective price and innovation competition to MSC. It also recites that the Commission will consider as well, among other things, any provisions for the hiring by the acquirer(s) of personnel knowledgeable concerning the design, development, maintenance, customer support, sales and marketing of the licensed rights.

The Software To Be Licensed. The intellectual property to be licensed includes all rights relating to the version of MSC.Nastran that is most current as of the date the consent agreement is accepted by the Commission for public comment. ¶ I.L.1.a. Diverstiture of rights to MSC's current version of MSC Nastran is a necessary remedial measure to facilitate the re-establishment of the competition that MSC allegedly eliminated with its two acquisitions. Such divestiture addresses the switching of former UAI and CSAR customers to MSC's own version of advanced Nastran, including former UAI and CSAR customers who may have adapted their prior procedures and customer-written software routines to the MSC version. In addition, such divestiture addresses the fact that MSC has incorporated new features in its releases of MSC.Nastran, including features taken from the CSAR and UAI versions acquired in 1999, and has not carried on any further development of the UAI and CSAR versions of Nastran following the acquisitions. Divestiture of the acquired assets alone would not restore the competitive conditions that existed before the acquisitions (the *status quo ante*), because the 3-year old UAI and CSAR codes are no longer as commercially viable as they were when MSC acquired them. Licensing of the current version of MSC.Nastran is required to give the acquirer or acquirers what UAI and CSAR formerly had: An up-to-date product upon which to base sales and future development efforts.

In addition to the current version of MSC.Nastran, MSC is also required to license to the acquirer(s) all of the intellectual property acquired in the UAI and CSAR acquisitions. ¶ I.L.1.b. and –.c. This relief is integral to the fundamental approach reflected in the settlement, which is to replicate in the hands of the acquirer(s) the intellectual property held by MSC in the aftermath of the challenged acquisitions. Licensing all the UAI and CSAR computer codes (in addition to MSC.Nastran) is justified to permit an acquirer(s) to offer all the computer codes formerly available from UAI and CSAR, including the ability to select aspects of the UAI Nastran and CSAR Nastran codes for possible inclusion in its future advanced Nastran product that have not been incorporated in MSC.Nastran since the acquisitions.

The Order details a broad range of intellectual property rights to be licensed to the acquirer(s). See ¶ I.L.2. In addition to the licensed intellectual property and physical or electronic copies embodying the intellectual property, MSC is also required to divest copies of other materials useful to an acquirer in establishing itself as a competitor to MSC. These include all of the customer files acquired by MSC as a result of the challenged acquisitions, as well as all marking information, sales training materials, and current (as of the divestiture date) customer lists, customer contact information, and customer support log database contents relating to customers who use MSC.Nastran in the United States. ¶ I.E.2. The latter information should be of particular use by an acquirer that may wish to differentiate itself from MSC by its responsiveness to customer needs. In the past, both UAI and CSAR used such tactics to compete against MSC.

Post-Divestiture Rights. In addition to the licensed rights describe above, the Order provides for further rights by the acquirer(s) in the post-divestiture period:

For twelve months after the divestiture date, the acquirer has the right to obtain from MSC ongoing support with respect to MSC.Nastran, in the form of personnel, information, technical assistance, advice and training. This includes reasonable consultation with knowledgeable employees of MSC to ensure that the acquirer's personnel can maintain, develop and support the Licensed Rights in a manner comparable to MSC. This continuing support does not extend to the licensed UAI and CSAR intellectual property, and will be provided at MSC's direct cost. ¶ I.K.4. This continuing support obligation complements the hiring opportunities afforded to the acquirer under other provisions of the Order discussed below.

For not less than three years after the divestiture date, the acquirer has the right to use the trademarks or trade names of the licensed software for the purpose of identifying the acquirer as a licensee from MSC. The acquirer does not otherwise obtain any rights of any kind to the name ''MSC'' or ''MSC.Nastran'' or related logos and trademarks of MSC. ¶ I.K.4.

Hiring of MSC Personnel. In order to ensure the ability of the acquirer to provide effective competition, the Order contains procedures to facilitate the acquirer's hiring of valuable MSC personnel. ¶ V. In the aftermath of the acquisitions, MSC was essentially the only employer of computer programmers with thorough knowledge of the proprietary versions of advanced Nastran. The future success of the acquirer in providing ongoing innovation competition in developing advanced Nastran may depend to a significant degree on its hiring of personnel (particularly programmers and customer support engineers) with knowledge of this large and complex body of computer code.

Customer Contracts. Prior to the acquisitions, most of MSC's advanced Nastran customer purchased the software on an annual lease basis—that is, for one-year terms with annual payments and in quantities determined according to annual needs. In the aftermath of the acquisitions, and especially in the 2001–2002 period, many customers converted annual leases for advanced Nastran to ''paid-up'' licenses—that is, licenses to use the software for an extended term, generally 25 years, for a larger advance payment and continuing maintenance fees during the contract term. This conversion may disadvantage future advanced Nastran competitors who may no longer have access to these customers at competitive prices.

To address the effect of these conversions on the acquirer's ability to attract a customer base, the proposed Order provides that, for a period of one year after the divestiture date, any customer who was converted from an annual lease to a paid-up license for MSC.Nastran in the period since the acquisitions has the right to terminate or rescind its license in whole or in part in order to deal with the acquirer. If a customer chooses to do so, MSC is required to refund or return a pro rata portion of the consideration paid in advance for its paid-up MSC.Nastran license. ¶ VII.A. The Order also provides that MSC is to provide affected customers with written notice of such rights within fourteen days following the divestiture date. ¶ VII.B.

The formula for such refunds bases the pro-rata allocation on the lesser of four years or the contract term. ¶ VII.A.

This refund formula should provide substantial incentive for affected customers to consider switching to the acquirer in whole or in part. Under this formula, customers who converted to a paid-up license since mid-year 2001 and who determine to switch to the acquirer at mid-year 2003 will be entitled to a refund of one-half or more of their advance payment for the paid-up MSC.Nastran license.

Although these provisions authorize refund payments by MSC to some customers, they are neither a penalty nor disgorgement. Their purpose is not to punish MSC or deprive it of ill-gotten gains. Rather, the provisions are in furtherance of the principal divestiture relief provided under the Order. They are intended to remove any penalty or disincentive on customers who had no alternative to MSC's terms after 1999, but who might now consider doing business with the acquirer of the divested assets. Indeed, no payment will be due from MSC to a customer unless and until the customer chooses to do business with the acquirer.

Post Divestiture Conduct. The Order includes provisions intended to prevent MSC from disadvantaging the acquirer in its post-divestiture dealings with customers or suppliers.

Advanced Nastran software is used in conjunction with other complementary software. Complementary software includes programs known as ''pre- and post-processors'' or ''meshers'' that are used to process input to or output from advanced Nastran and make it useful with other computer data, such as designs produced by CAD software. Complementary software of this sort is produced by various suppliers and by MSC itself. The Order requires MSC, for three years after the divestiture date, to maintain the interoperability of the current and any future versions of MSC's complementary software (including but not limited to its product MSC.Patran) with the licensed software (¶ VIII.A); and prohibits MSC from influencing a supplier of complementary software or services to refuse to deal with the acquirer or stop supporting interoperability with any of the licensed software (¶ VIII.B.).

During the same three-year period, MSC is required to maintain all current input and output file formats for MSC.Nastran. This is to ensure that users of MSC.Nastran would not be impeded or penalized in their use of models, files, or complementary software if they switched to the version of advanced Nastran offered by the acquirer. ¶ VII.C. The Order also requires that MSC not refuse to deal with any customer or prospective customer for the reason, in whole or in part, that such customer or prospective customer deals with the acquirer. ¶ VIII.D. The latter provision is intended to prevent MSC from inhibiting the pre-acquisition practice of many customers to maintain simultaneous licenses for more than one source of advanced Nastran software.

Prior Notice of Future Acquisitions. For a period of ten years, the Order requires MSC to provide prior notice of future acquisitions of any entity engaged in the development or sales of any version of Nastran. ¶IX. This provision is warranted under existing Commission policy because of the risk that MSC may in the future carry out anticompetitive acquisitions that otherwise would not come to the attention of the Commission because the transactions are likely to fall below the Hart-Scott-Rodino reporting thresholds. See Statement of FTC Policy Concerning Prior Approval and Prior Notice Provisions (June 21, 1995.

Monitor, Trustee and Reporting. The proposed Order contains standard monitor and trustee provisions. The Monitor provisions, set out in Paragraph III, authorize appointment of a person to oversee MSC's compliance with the terms of the Order. Such a monitor is warranted in light of the technical nature of the products at issue and the potential complexity of some compliance issues, including employee hiring and customer refunds. The trustee provisions, set out in Paragraph IV, contemplate appointment of a trustee to complete the required divestiture if MSC does not do so within the 150 days specified in the Order. Under these provisions, the Commission will appoint a trustee who will undertake to accomplish the required divestiture at no minimum price. The trustee will have one year to complete the divestiture. Finally, the proposed Order contains provisions for MSC to file regular reports concerning its compliance with the Order terms. ¶X.

III. Opportunity for Public Comment

The Proposed Order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the Proposed Order. It is not intended to constitute an official interpretation of the Agreement and Proposed Order or to modify their terms in any way.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

Statement of Commissioner Mozelle W. Thompson

The Commission today accepted a consent agreement to resolve the Commission's administrative complaint against MSC.Software. I voted to accept the agreement; however, I am concerned that industry and the private bar do not mistakenly make too much of the fact that the Commission did not require an up-front buyer for this licensing divestiture.

As a general rule, the Commission is more likely to require that parties present up-front buyers for assets when divesting less than an ongoing business. In this unique case, however, the Commission decided to resolve its concerns about MSC.Software's two consummated acquisitions by accepting an order requiring a prompt divestiture to restore lost competition, instead of potentially delaying relief further by first forcing MSC.Software to negotiate an asset sale to a potential buyer. The Commission makes such remedial assessments on a case-by-case basis, and such assessments would likely vary between relief proscribed for consummated mergers and relief for mergers prior to their consummation under Hart-Scott-Rodino reviews—the vast majority of Commission merger work. I am comfortable with the remedial action in this particular instance because the Commission has fully vetted the divestiture package's market acceptability with industry incumbents. Thus, I am fully confident that the asset package will function successfully in the marketplace and facilitate viable competition.

[FR Doc. 02–21118 Filed 8–19–02; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Notice of Availability; Environmental Assessment and Finding of No Significant Impact for the Proposed Master Development Plan for the U.S. Consumer Product Safety Commission, Gaithersburg, MD

AGENCY: Office of Portfolio Management, General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration is publishing a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Proposed Master

Development Plan for the U.S. Consumer Product Safety Commission in Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Hall, Office of Portfolio Management, WPT, General Services Administration, NCR, 7th and D Streets, SW., Washington, DC, 20407; (202) 401–2354; e-mail at *ernest.hall@hsa.gov.*

SUPPLEMENTARY INFORMATION: The notice of availability is as follows:

Notice of Availability; Environmental Assessment and Finding of No Significant Impact for the Proposed Master Development Plan for the U.S. Consumer Product Safety Commission, Gaithersburg, Maryland

Reply to the Attention of: Mr. Ernest Hall, Office of Portfolio Management, WPT, General Services Administration, NCR, 7th & D Streets, SW., Washington, DC 20407. (202) 401–2354. E-mail: *ernest.hall@hsa.gov.*

The General Services Administration (GSA) is publishing a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Proposed Master Development Plan for the U.S. Consumer Product Safety Commission (CPSC) in Gaithersburg, Maryland. The Final EA will be available for public review at the following locations:

GSA National Capital Region, 301 7th Street, SW., Room 7600, Washington, DC 20407.

The Gaithersburg Library, 8660 Montgomery Village Avenue, Gaithersburg, Maryland 20877.

Gaithersburg City Hall, 31 South Summit Avenue, Gaithersburg, MD 20877.

The GSA, acting as development manager for Federal facilities, proposed to adopt a Master Development Plan for the U.S. CPSC National Laboratory in Gaithersburg, Maryland. The plan includes a proposal to construct a Sample Storage Facility on the southeast quadrant of the site and to renovate and expand existing facilities. The proposed action would consist of constructing an 18,000 square foot Sample Storage Facility on the southeast quadrant of the site, and upgrading Buildings A, B, and C to meet CPSC specifications, including adding a connector between Buildings B and C. Interior renovations are required for Buildings E, F, G, and H to bring all aspects of the buildings up to current code requirements. Two additional small burn room areas will be added to the west end of Building G. The proposed action would also include relocating existing water lines, sewer lines, and electrical ducts.

When compared to the other build alternatives in the Final EA, the proposed action would result in the least amount of changes to the site, is the least costly to implement, and best meets CPSC's long-range needs. The proposed action will incorporate measures such as enhanced landscaping and a stormwater detention area to mitigate any permanent aesthetic or stormwater impacts of the proposed development and expansions/renovations.

Finding

Pursuant to the provision of GSA Order ADM 1095.1F, the PBS NEPA Desk Guide, and the regulations issued by the Council of Environmental Quality, (40 CFR parts 1500 to 1508), this is to advise you of our finding, based on the Final Environmental Assessment (EA), that the action described above is considered a major Federal action not significantly affecting the quality of the human environment.

Basis for Finding

The environmental impacts of constructing and operating the proposed facilities were considered in the Final EA pursuant to the National Environmental Policy Act (NEPA). The Final EA, which is available for review at the locations listed on page 1, is incorporated by reference in the FONSI. Constructing and operating the proposed project will not have a significant adverse affect on the human environment.

The EA documents the master planning process undertaken for the future use of the site. The direct, indirect, and cumulative impacts of the three build alternatives and the no action alternative were analyzed in accordance with the NEPA, and the Council on Environmental Quality (CEQ) regulations implementing NEPA. The Final EA analyzes the reasonably foreseeable environmental impacts that could result from the three build alternatives and the no action alternative.

Regardless of which build alternative is selected, all alternatives would involve temporary construction disturbances to the ambient air and noise environment, soils, and stormwater runoff from the site. However, Alternative 2 would involve substantially greater disruption affecting the entire site over a longer period of time. Alternative 3 would involve reducing the existing landscaping. Under the preferred alternative, improvements would affect less than ¼ of the existing site and will incorporate measures such as enhanced landscaping and a stormwater detention area to mitigate any permanent aesthetic or stormwater effects of the proposed CPSC development and renovations. To mitigate potential impacts, GSA will implement the measures that are discussed in the Environmental Assessment.

This Finding of No Significant Impact will become final thirty (30) days after publication in the **Federal Register** provided that no information leading to a contrary finding is received or comes to light during the 30-day public review period.

Donald C. Williams,

Regional Administrator, National Capital Region, U.S. General Services Administration.

[FR Doc. 02–21072 Filed 8–19–02; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security.

Time and Date: 9 a.m. to 5 p.m., August 28, 2002. 9 a.m. to 3 p.m., August 29, 2002.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC.

Status: Open.

Purpose: The Subcommittee on Standards and Security plans to solicit testimony from a panel of invited experts in medical terminologies to help the Committee define the scope and the criteria for recommendations on the selection of Patient Medical Record Information (PMRI) terminologies under the Health Insurance Portability and Accountability Act (HIPAA). On the second day the Subcommittee will hear from an expert panel about recent initiatives in the public and private sectors aimed at promoting and coordinating national activities for health data standards in support of achieving system interoperability and data comparability in order to meet clinical and public health needs. Additional general topics will include procedure codes and future health data standards recommendations to the HHS Secretary.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Karen Trudel, Senior Technical Advisor, Security and Standards Group, Centers for Medicare and Medicaid Services, MS: C5–24–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, telephone: 410–786–9937;

or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone: (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Dated: August 2, 2002.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–21057 Filed 8–19–02; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–45–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

The National Health and Nutrition Examination Survey (NHANES) (OMB No. 0920–0237)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The National Health and Nutrition Examination Survey (NHANES) has been conducted periodically since 1970 by the National Center for Health Statistics, CDC. The current cycle of NHANES began in February 1999 and will now be conducted on a continuous, rather than periodic, basis. About 5,000 persons will be examined annually. They will receive an interview and a physical examination. Participation in the survey is completely voluntary and confidential.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of questionnaires, physical examinations, and laboratory tests, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors related to health such as coronary heart disease, arthritis, osteoporosis, pulmonary and infectious diseases, diabetes, high blood pressure, high cholesterol, obesity, smoking, drug and alcohol use, environmental exposures, and diet. NHANES data are used to establish the norms for the general population against which health care providers can compare such patient characteristics as height, weight, and nutrient levels in the blood. Data from NHANES can be compared to those from previous surveys to monitor changes in the health of the U.S. population. NHANES will also establish a national probability sample of genetic material for future genetic research for susceptibility to disease.

Users of NHANES data include Congress; the World Health Organization; Federal agencies such as NIH, EPA, and USDA; private groups such as the American Heart Association; schools of public health; private businesses; individual practitioners; and administrators. NHANES data are used to establish, monitor, and evaluate recommended dietary allowances, food fortification policies, programs to limit environmental exposures, immunization guidelines and health education and disease prevention programs. The estimated annualized burden for this data collection is 56,457 hours.

Respondent	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
1. Screening interview only	13,333	1	0.120
2. Screener and family interviews only	500	1	0.400
3. Screener, family, and SP interviews only	882	1	1.020
4. Screener, family, and SP interviews and primary MEC exam only	5,000	1	6.020
5. Screener, household, and SP interviews, primary MEC exam and full MEC replicate exam	248	1	11.020
6. Home exam	75	1	1.850
7. Interview verification	1,333	1	0.080
8. Hepatitis C follow-up study	67	1	0.500
9. PSA follow-up study	175	1	0.500
10. Second Dietary Recall	4,653	1	0.500
11. Activity Monitor	3,000	1	0.750
12. Optional Telephone follow-up study	2,000	1	0.500
13. Optional Puerto Rican study	2,500	1	6.020

Dated: August 13, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–21050 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–44–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written

comments should be received within 30 days of this notice.

Proposed Project

National Nursing Home Survey (OMB No. 0920–0353)—Reinstatement with Change—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). Section 306 of the Public Health Service Act states that the National Center for Health Statistics ''shall collect statistics on health resources * * * [and] utilization of health care, including utilization of * * * services of hospitals, extended care facilities, home health agencies, and other institutions.'' The data system responsible for collecting this data is the National Health Care Survey (NHCS). The National Nursing Home Survey (NNHS) is part of the Long-term Care Component of the NHCS. The NNHS was conducted in 1973–74, 1977, 1985, 1995, 1997, and 1999. NNHS data describe a major segment of the long-term care system and are used extensively for health care research, health planning and public policy. NNHS provides data on the characteristics of nursing homes in relation to their residents and staff, Medicare and Medicaid certification, basic rates for Medicaid and private pay residents, sources of payment, residents' functional status and diagnoses. The survey provides detailed information on utilization patterns and quality of care that is needed in order to make accurate assessments of the need for and effects of changes in the provision and financing of long-term care for the elderly. The use of long-term care services is becoming an increasingly important issue as the number of elderly increases and persons with disabilities live longer. Data from the NNHS have been used by the National Immunization Program at CDC, the Office of the U.S. Attorney General, the Bureau of Health Professionals at the Health Resources and Services Administration, the National Institute of Dental and Craniofacial Research at the National Institutes of Health, the Agency for Healthcare Research and Quality, the American Health Care Association, Johnson and Johnson Pharmaceutical, the Rand Corporation, AARP, National Academy of Social Insurance, and by newspapers and journals. NCHS plans to conduct the next NNHS in September–December 2003. This national survey will be preceded by a pretest of forms and procedures in January–February 2003. The data collection forms and procedures have been extensively revised from the previous NNHS. The 2003 NNHS will be based on computer-assisted personal interview (CAPI) methodology. The estimated annualized burden for this data collection is 31,258 hours.

Pretest

Forms	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)
Facility Questionnaire	100	1	20/60
Nursing Home Staff Questionnaire	100	1	2.5
Current Resident Sampling List	100	1	20/60
Current Resident Questionnaire	100	8	25/60
Discharged Resident Sampling List	100	1	15/60
Discharged Resident Questionnaire	100	8	25/60

Full Survey

Forms	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)
Facility Questionnaire	3,000	1	20/60
Nursing Home Staff Questionnaire	3,000	1	2.5
Current Resident Sampling List	3,000	1	20/60
Current Resident Questionnaire	3,000	8	25/60
Discharged Resident Sampling List	3,000	1	15/60
Discharged Resident Questionnaire	3,000	8	25/60

Dated: August 13, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–21051 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, National Center for Environmental Health (NCEH): Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Committee to the Director, National Center for Environmental Health, Centers for Disease Control and Prevention of the Department of Health and Human Services, has been renewed for a 2-year period extending through August 2, 2004.

FOR FURTHER INFORMATION CONTACT: Kent Taylor, Acting Executive Secretary, NCEH, 4770 Buford Highway, N.E., m/s F–29, Atlanta, Georgia 30341–3724. Telephone 770/488–7020, or fax 770/488–7024, e-mail *KXT1@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 14, 2002.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–21082 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates:
8 a.m.–4:30 p.m., September 5, 2002
8 a.m.–11:45 a.m., September 6, 2002

Place: Crowne Plaza, 130 Shipyard Drive, Hilton Head Island, South Carolina 29928, telephone 843–842–2400, fax 843–842–9972.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and to serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include: Savannah River Site (SRS) Monitoring Program and Annual Environmental Report; Georgia Department of Health Monitoring Program at SRS; South Carolina Department of Health Monitoring Program at SRS; and ATSDR/Tritium Health Consult on Potential Tritium Exposures at SRS. Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Phillip Green, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 1600 Clifton Road, NE (E–39), Atlanta, Georgia 30333, telephone (404) 498–1800, fax (404) 498–1811, e-mail *PGreen@cdc.gov.*

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact Phillip Green at least ten (10) working days before the scheduled date of the meeting.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: August 14, 2002.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–21085 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02223]

The Effect of Trichomonas vaginalis Infection on Vaginal Virus Loads Among HIV-Infected Women—Tulane University Health Sciences Center; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a grant program, ''The Effect of Trichomonas vaginalis Infection on Vaginal Virus Loads among HIV-Infected Women'' to be performed by Tulane University Health Sciences Center, School of Public Health and Tropical Medicine.

Detection and treatment of Trichomonas vaginalis (T. vaginalis) among HIV-infected women may be an important public health strategy in reducing the spread of HIV infection. This is of profound public health importance, as it would advance medical knowledge in the relationship between T. vaginalis (the most common non-viral STD among HIV-infected women) and vaginal shedding of the HIV virus.

The study may lead to a determination of whether or not the effective treatment of T. vaginalis would result in a reduction in the spread of HIV. This study falls under the public health initiative Human Immunodeficiency Virus (HIV) Prevention.

B. Eligible Applicant

Assistance is provided only to Tulane University Health Sciences Center, School of Public Health and Tropical Medicine. Tulane's application contained an important and unique scientific proposal that was not submitted in response to any existing program announcement, but does fall under the embrace of the Government's public health initiative Human Immunodeficiency Virus (HIV) Prevention. The research team at Tulane has a strong background in conducting similar studies. They are the largest provider of care to women co-infected with HIV and T. vaginalis in the gulf south region. They have the research, clinical, and laboratory expertise needed to conduct such a study. The CDC Division of Sexually Transmitted Disease Prevention (DSTD) performed a thorough review of Tulane's proposal and determined that it would significantly advance the state of medical knowledge, and provide a unique contribution to the understanding of T. vaginalis and HIV infectivity.

C. Funds

Approximately $149,979 is being awarded in FY 2002. The award will begin on or about September 15, 2002, and will be made for a 24-month budget period within a project period of two years.

D. Where To Obtain Additional Information

Business management technical assistance may be obtained from: William J. Ryan, Jr., Grants Management Officer, Procurement and Grants Office,

Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number 770–488–2717, e-mail address: *wfr4@cdc.gov.*

For program technical assistance, contact: Emily Koumans, MD, Division of STD Prevention, Centers for Disease Control and Prevention, NCHSTP/DSTD, 10 Corporate Square Blvd, Atlanta, GA 30329, Telephone number 404–639–8870, e-mail address: *svs5@cdc.gov.*

Dated: August 13, 2002.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–21080 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

A Public Health Action Plan To Combat Antimicrobial Resistance (Part II: Global Issues): Meeting for Public Comment on Development of Part II of the Action Plan (Global Issues)

The Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), and National Institutes of Health (NIH) announce an open meeting concerning antimicrobial resistance.

Name: A Public Health Action Plan To Combat Antimicrobial Resistance (Part II: Global Issues): Meeting for Public Comment on the Development of Part II of the Action Plan (Global Issues).

Time and Date: 8:30 a.m.–3:30 p.m., September 26, 2002.

Place: Manchester Grand Hyatt, Manchester Ballroom A & B, 8120 One Market Place, San Diego, California, 92101, U.S.A. Tel: 619–232–1234; Fax: 619–232–5678.

Status: Open to the public, interested experts who are citizens of the United States or other countries are welcomed and encouraged to attend. Limited only by the space available.

Purpose: To solicit comments to aid in the development of A Public Health Action Plan to Combat Antimicrobial Resistance (Part II: Global Issues). The Action Plan serves as a blueprint for specific actions of U.S. government agencies to address the global problem of antimicrobial resistance.

Matters to be Discussed: The agenda will consist of welcome and introductory comments, focusing on the three areas that comprise Part II of the Action Plan, lasting about 90 minutes. The three focus areas are: Surveillance, Prevention and Control, and Research. Breakout groups will then meet to discuss each focus area for approximately 3 hours. Following lunch, the entire group will reconvene for a concluding plenary session lasting approximately 2 hours.

Comments and suggestions from the public for Federal agencies related to each of the focus areas will be taken under advisement by the Antimicrobial Resistance Interagency Task Force. The agenda does not include development of consensus positions, guidelines, or discussions or endorsement of specific commercial products.

The Action Plan (Part I: Domestic Issues) is available at *http://www.cdc.gov/drugresistance.* The public meeting is sponsored by the CDC, FDA, and NIH in collaboration with eight other Federal agencies and departments involved in developing and writing A Public Health Action Plan to Combat Antimicrobial Resistance (Part II: Global Issues).

Agenda items are subject to change as priorities dictate.

Limited time will be available for oral questions, comments, and suggestions from the public. Depending on the number wishing to comment, a time limit may be imposed. In the interest of time, visual aids will not be permitted, although written material may be submitted for subsequent review by the Task Force. Written comments and suggestions from the public are encouraged and should be received by the contact person or email listed below prior to the opening of the meeting or no later than the end of October 2002.

Persons who anticipate attending the meeting are requested to send written notification to the contact person below by September 23, 2002, including name, organization (if applicable), address, phone, fax, and email address.

Contact Person for More Information: Ms. Vickie Garrett, Antimicrobial Resistance, Office of the Director, NCID, CDC, Mailstop C–12, 1600 Clifton Road, NE., Atlanta, GA 30333; telephone 404–639–2603; fax 404–639–4197; or e-mail *aractionplan@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 14, 2002.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–21083 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates:

8:30 a.m.–5:00 p.m., September 11, 2002.
8:30 a.m.–3:30 p.m., September 12, 2002.

Place: CDC, Koger Center, Williams Building, Conference Rooms 1802 and 1805, 2877 Brandywine Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters To Be Discussed: The agenda will include updates from CDC, the Food and Drug Administration, and the Centers for Medicare & Medicaid Services; a report on the Coordinating Council for Clinical Laboratory Workforce's April 2002 meeting and subsequent activities; reports from several organizations on healthcare workforce issues; Department of Health and Human Services' bioterrorism preparedness and response activities; a report on the Secretary's Advisory Committee on Genetic Testing May 2002 meeting; genetics testing survey results from the Pacific Northwest Sentinel Network; and an update on plans for the April 2003 Quality Institute.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Rhonda Whalen, Chief, Laboratory Practice Standards Branch, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop F–11, Atlanta, Georgia 30341–3724, telephone 770/488–8042, fax 770/488–8279.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 14, 2002.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–21081 Filed 8–19–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Public Meeting/Opportunity for Public Comment: Healthy People 2010 Tobacco Objectives

AGENCY: Department of Health and Human Services, Centers for Disease Control and Prevention Office on Smoking and Health.

DATE AND TIME: November 18, 2002, 1 p.m. to 4 p.m.

PLACE: Hilton San Francisco, 333 O'Farrell Street, San Francisco, CA 94102, telephone 415/771–1400.

SUMMARY: The Healthy People 2010 Tobacco Workgroup is convening a meeting and soliciting comments on progress towards meeting the Healthy People 2010 tobacco objectives. The meeting is scheduled immediately prior to the 2002 National Conference on Tobacco or Health. The meeting is open to the public and will allow attendees of the Conference and other interested parties an opportunity to provide input to the Healthy People 2010 Tobacco Workgroup. Individuals and organizations are encouraged to comment on the Healthy People 2010 tobacco objective progress in one or both of the following ways: (1) In writing, by submission through the mail, or e-mail; (2) In person, at a public meeting that will be convened in San Francisco, CA.

STATUS: Open to the public, limited only by the space available. Comments will also be accepted during the public meeting. If you would like to attend the public meeting, you are encouraged to register early by providing your name, title, organization name, address, and telephone number to Monica Swann (address below). If you would like to speak at the meeting, please notify Monica Swann when you register. The U.S. government encourages individuals to submit written comments, either electronically or by mail. Comments also will be accepted during the meeting. Written comments may be submitted until December 27, 2002. Comments can be submitted by mail or electronically (electronic submissions are encouraged).

ADDRESSES: To submit electronic comments, send via e-mail to *Healthypeople@cdc.gov.* To submit comments by mail, send to: Healthy People 2010 Tobacco comments (Attn: Ms. Monica Swann), Office on Smoking and Health, 200 Independence Ave., Room 317-B, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: Healthy People 2010 is a decade-long national initiative based on science, data and policy which aims to improve health, and includes federal and state government and many other diverse stakeholders, and reflects the complexity of the health structure in the United States. There are 28 health topics including tobacco.

The tobacco objectives are broken down into four areas: prevalence; cessation and treatment, secondhand smoke, and social and environmental change. The tobacco objective progress review should document barriers and strategies to achieving the objectives, as well as implementation efforts underway to reach the specific population targets. The comment period and public meeting are intended to give interested persons, including public health and medical professionals, state and local officials, farmers, retailers, manufacturers, and others an opportunity to comment. On November 18, 2002, the Healthy People 2010 Tobacco Workgroup will be receiving comments on progress towards reaching the Healthy People 2010 tobacco objectives. Oral comments are especially requested to cover one or more of the following areas: Adult and youth prevalence, cessation and treatment, secondhand smoke, and disparities. To accommodate all the participants who wish to speak, comments will be limited to three minutes. Written comments are also encouraged from the public on progress towards the Healthy People 2010 tobacco objectives progress. This is an opportunity to provide comments on barriers as well as strategies to reach the tobacco objectives.

The Workgroup is especially seeking information on the Healthy People areas: Adult/youth prevalence, cessation and treatment, secondhand smoke, and disparities.

Background documents on the Healthy People 2010 are available at *http://www.health.gov/healthypeople.* Background information on tobacco is available at www.cdc.gov/tobacco.

Submitted comments will be posted on the Internet at *http://www.cdc.gov/tobacco.*

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Wagman, Office on Smoking and Health, 200 Independence Ave., Suite 317-B, Washington, DC 20201, 202–205–8500 (telephone) or (202) 205–8313 (facsimile) or *healthypeople@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 14, 2002.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–21084 Filed 8–19–02; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Temporary Assistance for Needy Families (TANF) Caseload Reduction Documentation Process, ACF–202 (OFA).

OMB Control No: 0970–0199.

Description: To ensure that States receive credit for families that have become self-sufficient and left the welfare rolls, Congress created a caseload reduction credit. The credit reduces the required participation rate that a State must meet for a fiscal year. To receive a caseload reduction credit, a State must complete form ACF–202, the Caseload Reduction Report. The report provides information needed to calculate a caseload reduction credit, and thus determine the participation standard each State must meet for the fiscal year. This report derives from section 407(a)(3) of the Social Security Act and the implementing Federal Regulations at 45 CFR part 261, subpart D.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Caseload Reduction Doc. Process, ACF–202 (OFA)	54	1	160	8,640

Title: Reasonable Cause/Corrective Action Documentation Process (OFA).

OMB Control No: 0970–0199.

Description: The Social Security Act provides that States can be penalized for misusing TANF funds and for failure to comply with other requirements. If a State wishes to dispute a penalty determination or wants to be considered for a waiver of a penalty, the State may submit a ''reasonable cause'' justification and/or a corrective compliance plan. After careful consideration of one or both documents, we will notify the State of our findings with respect to the penalty. This process was established by section 409 of the Social Security Act and the implementing Federal regulations at 45 CFR part 261, subpart E, Part 262, and Part 264.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Reasonable Cause/Corrective Action Documentation Process (OFA)	54	2	160	17,280

Title: Annual Report on State Maintenance-of-Effort (MOE) Programs, ACF–204 (OFA).

OMB Control No: 0970–0199.

Description: States must submit an annual report containing information on their State MOE programs via form ACF–204. The report is an important source for information about the different ways States are using their resources to help families attain and maintain self-sufficiency. The information is used to discuss program characteristics in our annual report to Congress, to respond to Congressional and public inquiries about how TANF programs are evolving and to assess State MOE expenditures. The statutory basis for this report is found in sections 409(a)(7) and 411(a)(3) of the Social Security Act and the implementing Federal regulations at 45 CFR 265.9.

Respondents: States.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Annual Report on State MOE Programs, ACF–204	54	1	128	6,912

Estimated Total Annual Burden Hours: 32,832.

In compliance with the requirements of section 3506(c)(2)(A) the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: August 13, 2002.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 02–21040 Filed 8–19–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: 45 CFR 1301—Head Start Grants Administration.

OMB No. 0980–0243.

Description: 45 CFR part 1301 contains provisions applicable to program administration and grants administration under the Head Start Act, as amended. The provisions specify the requirements for grantee agencies for insurance and bonding, the submission of audits, matching of federal funds, accounting systems certifications and other provisions applicant to personal

and general administration of grants. Appendix A of this section also specifies grantee responsibilities when identifying and reporting child abuse and neglect, and specifies the limitations which apply to costs of development and administration of Head Start programs.

Respondents: Head Start Program grants recipients.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
45 CFR Part 1301	2500	2500	2	5,000
Estimated Total Annual Burden Hours				5,000

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection will be given to comments and suggestions submitted within 60 days of this publication.

Dated: August 13, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–21041 Filed 8–19–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Court Improvement Program.

OMB No.: New.

Description: The Court Improvement Program provides grants to State court systems to conduct assessments of their foster care and adoption laws and judicial processes, and to develop and implement a plan for system improvement. This Program Instruction (1) describes the requirements for States under the reauthorization of the Court Improvement Program; (2) outlines the programmatic and fiscal provisions and reporting requirements of the program; (3) specifies the application submittal and approval procedures for the program for Fiscal Years 2003 through 2006; and (4) identifies technical resources for use by State courts during the course of the program. This Program Instruction contains information collection requirements that are found in Pub. L. 103–66, as amended by Pub. L. 105–89 and Pub. L. 107–133; and pursuant to receiving a grant award. The information received will be used by the agency to ensure compliance with the statute and provide training and technical assistance to the grantees.

Respondents: State courts.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2080
Annual Program Report	52	1	24	1247
Estimated Total Annual Burden Hours				3328

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents; including through the use of automated collection techniques or other forms of information technology. Consideration will be given to

comments and suggestions submitted within 60 days of this publication.

Dated: August 13, 2002.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 02–21042 Filed 8–19–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Quarterly Financial Report (ACF–696).

OMB No.: 0970–0163.

Description: States and Territories use this form to facilitate the reporting of expenditures for the Child Care and Development Fund on a quarterly basis. The form provides specific data regarding financial disbursements, obligations and estimates. It provides States and Territories with a mechanism to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise the Administration for Children and Families' (ACF) ability to monitor expenditures. This form may also be used to prepare ACF budget submissions to Congress. This information collection is a revised version of the currently used ACF–696 for which Office of Management and Budget approval expires on September 30, 2002.

Respondents: States and Territories that are CCDF grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–696	56	4	8	1792
Estimated Total Annual Burden Hours				1792

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503. Attn: Desk Officer for ACF.

Dated: August 13, 2002.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 02–21043 Filed 8–19–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Medical Device Use in the Home Health Care Community; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting entitled ''Home Health Care Committee'' (the committee). The committee will recommend to the Center for Devices and Radiological Health (CDRH) appropriate actions that may be taken to promote safe and effective use of medical devices in the home environment. The committee was formed as part of CDRH's strategic planning to understand impediments to the safe and effective operation of medical devices used in the home environment. The committee is interested in learning from other agencies, from industry, and from the public how agencies can work better together using outside interested parties to make medical devices used in the home environment more safe and effective.

Date and Time: The public meeting will be held on September 12, 2002, from 9 a.m. to 4:45 p.m., and on September 13, 2002, from 9 a.m. to 3:30 p.m.

Location: The National Institutes of Health (NIH), Building 45, Natcher Building and Conference Center, Center Dr., Bethesda, MD. Details regarding NIH facilities and visitor information may be found on the Internet at http://www.nih.gov/about/visitorsecurity.htm.

Contact Person: Mary W. Brady, Center for Devices and Radiological Health (HFZ–530), 1350 Piccard Dr., Rockville, MD 20850, 301–594–2102, e-mail: mwb@cdrh.fda.gov.

Agenda: On September 12 and 13, 2002, representatives from various agencies will participate in a series of presentations regarding respective agency roles in home health care including: FDA, the Joint Commission on the Accreditation for Healthcare Organizations, the Department of Veterans Affairs, the Centers for Medicare and Medicaid Services, and the Health Resources and Services Administration. At the conclusion of each presentation audience members will be invited to participate in an open discussion. Each presentation and discussion session will run approximately 1 1/2 hours.

Procedure: Members of the public who are interested in attending as audience members should contact Mary W. Brady by September 5, 2002, or send an e-mail to *CDRHHHCO@cdrh.fda.gov*.

If you need special accommodations due to a disability, please contact Shirley L. Meeks, Center for Devices and

Radiological Health (HFZ–017), 2098 Gaither Rd., Rockville, MD 20850, 301–594–1283, ext. 105, at least 7 days in advance of the meeting.

Dated: August 13, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–21207 Filed 8–19–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 9, 2002, from 10:30 a.m. to 5 p.m., and September 10, 2002, from 8 a.m. to 4 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Geretta Wood, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320, ext. 143, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 9, 2002, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for an endovascular graft placed percutaneously to treat infrarenal abdominal aortic aneurysms as an alternative to surgery. On September 10, 2002, the committee will discuss, make recommendations, and vote on a supplement to a PMA for a double disk occluder indicated for closure of patent foramen ovale in patients at risk for recurrent cryptogenic stroke or transient ischemic attack. Background information for each day's topic, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at http://www.fda.gov/cdrh/panelmtg.html. Material for the September 9, 2002, session will be posted on September 6, 2002; material for the September 10, 2002, session will be posted on September 9, 2002.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 30, 2002. On both days, oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of each topic and for approximately 30 minutes near the end of the committee deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 30, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 301–594–1283, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 12, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Affairs.

[FR Doc. 02–21210 Filed 8–19–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nonprescription Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Nonprescription Drugs Advisory Committee with members from the following committees: Anesthetic and Life Support Drugs Advisory Committee, Arthritis Advisory Committee, Cardiovascular and Renal Drugs Advisory Committee, Drug Safety and Risk Management Advisory Committee, and Gastrointestinal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 19 and 20, 2002, from 8 a.m. to 5 p.m.

Location: Hilton, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD. The hotel phone number is 301–589–5200.

Contact Person: Sandra Titus or LaNise Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or e-mail: Tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12541. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 19, 2002, the committee will discuss safety issues related to the use of acetaminophen. The primary area for discussion will focus on potential hepatotoxicity related to the use of acetaminophen in both over-the-counter (OTC) and prescription (RX) products. On September 20, 2002, the committee will discuss safety issues related to the use of aspirin and other OTC nonsteroidal anti-inflammatory drugs (NSAIDS). The primary areas for discussion will focus on potential gastrointestinal bleeding and renal insufficiency related to the use of these products.

In rulemaking, the agency has proposed aspirin and acetaminophen as category I ingredients for safety and effectiveness. Other NSAIDS and combination products are marketed under new drug applications. The agency continues to believe that these ingredients are safe and effective in the prescription and OTC products currently on the market when properly used. The advisory committee will discuss whether labeling or other

measures are warranted to reduce the risk of occurrence or the severity of these adverse reactions.

Background material will be available at http://www.fda.gov/ohrms/dockets/ac/acmenu.htm. Click on the year 2002 and go to the September 19th and 20th Nonprescription Drugs Advisory Committee file. As background material becomes available from FDA and interested parties, it will be posted.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 26, 2002. Submissions received by this date will be distributed to the committee as well as posted on the docket site for this meeting. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 9 a.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 4, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sandra Titus at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 12, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02–21208 Filed 8–19–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pulmonary-Allergy Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 6, 2002, from 7:30 a.m. to 4 p.m.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12545. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–395, SPIRIVA (Tiotropium bromide) by Boehringer-Ingelheim, for chronic obstructive pulmonary disease.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 1, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 1, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kimberly L. Topper at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 12, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02–21209 Filed 8–19–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indian Health Service Loan Repayment Program

AGENCY: Indian Health Service, HHS.

ACTION: Request for public comment: 60-day Proposed Information Collection: Indian Health Service Loan Repayment Program.

SUMMARY: The Department of Health and Human Services, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Indian Health Service (IHS) is providing a 60-day advance opportunity for public comment on a proposed extension of current information collection activity to be submitted to the Office of Management and Budget for review.

Proposed Collection

Title: 0917–0014, ''Indian Health Service Loan Repayment Program.'' *Type of Information Collection Request:* Extension, without revision, of currently approved information collection. *Form Number:* None. *Forms:* The IHS Loan Repayment Program Information Booklet contains the instructions and the application formats. *Need and Uses of Information Collection:* The IHS Loan Repayment Program identifies health professionals with pre-existing financial obligations for education expenses that meet program criteria and who are qualified and willing to serve at, often remote, IHS health care facilities. Under the program, eligible health professionals sign a contract under which the IHS agrees to repay part or all of their indebtedness for professional

training education. In exchange, the health professionals agree to serve for a specified period of time in IHS health care facilities. Eligible health professionals that wish to apply must submit an application to participate in the program. The application requests personal, demographic and educational training information, including information on the educational loans of the individual for which repayment is being requested (*i.e.,* date, amount, account number, purpose of each loan, interest rate, the current balance, *etc*). The data collected is needed and used to evaluate applicant eligibility; rank and prioritize applicants by specialty; assign applicants to IHS health care facilities; determine payment amounts and schedules for paying the lending institutions; and to provide data and statistics for program management review and analysis. *Affected Public:* Individuals and households. *Type of Respondents:* Individuals. *Burden Hours:* The table below provides the estimated burden hours for this information collection:

ESTIMATED BURDEN HOURS

Data collection instrument	Estimated number of respondents	Responses per respondent	Average burden hour per response* (minutes)	Total annual burden hours
Section I	425	1	0.25 (15)	106
Section II	425	1	0.50 (30)	213
Section II	425	4	0.25 (15)	425
Contract	425	1	0.33 (20)	140
Affidavit	425	1	0.17 (10)	72
Lender Certificate	1700	1	0.25 (15)	425
Total	2125			1381

*For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments

Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests For Further Information: Send your written comments and requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601, call non-toll free (301) 443–5938, send via facsimile to (301) 443–2316, or send your e-mail requests, comments, and return address to: *Ihodahdw@hqe.ihs.gov.*

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: August 13, 2002.

Michel E. Lincoln,

Acting Director, Indian Health Service.

[FR Doc. 02–21104 Filed 8–19–02; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Refugee Resettlement; Grant to the Department of Human Services, District of Columbia

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Grant Award Announcement.

SUMMARY: Notice is hereby given that an award is being made to the Department of Human Services, District of Columbia in the amount of $225,000 to provide funds to refugees in need of employment assistance due to the events of the September 11, 2001 attack on the Pentagon. The closure of Reagan National Airport and the rapid decline in the metropolitan hospitality industry caused substantial numbers of refugees to lose their jobs. Many of these refugees arrived in the United States some time ago and are no longer eligible for refugee cash assistance and refugee medical assistance. The District of Columbia, Department of Human Services, intends to provide funds for mental health services, transportation assistance, English as a Second Language, direct assistance and State administration costs.

After the appropriate reviews, it has been determined that the need for additional services is compelling. The period of this funding will extend through March 30, 2003.

FOR FURTHER INFORMATION CONTACT: Janet Bailey, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone (202) 401–4647.

Dated: May 14, 2002.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

[FR Doc. 02–21044 Filed 8–19–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability for restricted eligibility.

SUMMARY: This notice is to inform the public that the SAMHSA/CSAP has available $130,000 to supplement the Iowa State Incentive Grant. The Wiatt Foundation donated $100,000 to be used on the National Youth Anti-Drug Media Campaign, specifically in the Sioux City, Iowa media market. The Office of National Drug Control Policy (ONDCP) provided an additional $30,000 that was donated by the UPS Foundation in 1998 through the Partnership for a Drug-Free Iowa. The State Incentive Program Grant provides funds to the States to coordinate, leverage, and/or redirect all substance abuse prevention resources within the State that are directed at communities, families, youth (ages 12–17), schools and workplaces.

Program Contact: For questions concerning program issues, contact: Karen Salem, Rockwall II, Suite 930, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9831, e-mail: *Ksalem@samhsa.gov*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, e-mail: *Shudak@samhsa.gov*

Dated: August 14, 2002.

Joseph H. Autry III,

Deputy Administrator, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–21103 Filed 8–19–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–25]

Delegation of Appointment Authority: Manufactured Housing Consensus Committee

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Delegation of Authority.

SUMMARY: In this notice, the Secretary delegates to the Assistant Secretary of Housing-Federal Housing Commissioner the authority to make appointments relating to the consensus committee for manufactured housing.

EFFECTIVE DATE: August 8, 2002.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Manufactured Housing Program, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–6409 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Department regulates the design, construction, and safety of manufactured housing pursuant to its authority under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, *et seq.* (''the Act''). The Act was amended by the Manufactured Housing Improvement Act of 2000 (Title VI, Pub. L. 106–569, 114 Stat. 2944, approved December 27, 2000), in part to provide for the establishment of a consensus committee for manufactured housing. The consensus committee is charged with providing recommendations to the Secretary to adopt, revise, and interpret manufactured housing construction and safety standards and procedural and enforcement regulations, and with submitting to the Secretary proposed model installation standards. The Assistant Secretary for Housing-Federal Housing Commissioner oversees HUD's manufactured housing program.

The responsibilities and authorities of the Secretary to make appointments and designations with respect to the consensus committee is being delegated to the Assistant Secretary for Housing-Federal Housing Commissioner.

Accordingly, the Secretary delegates authority as follows:

1. The authority under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, *et seq.*, as amended by the Manufactured Housing Improvement Act of 2000 (Title VI, Pub. L. 106–569, 114 Stat. 2944, approved December 27, 2000)) and the implementing regulations to make any necessary or discretionary appointments relating to the consensus committee for manufactured housing is hereby delegated to the Assistant Secretary for Housing-Federal Housing Commissioner.

2. The authority under the Federal Advisory Committee Act, 5 U.S.C. App., and the General Services Administration implementing regulations at 41 CFR part 102–3 to make any necessary or discretionary appointments relating to the consensus committee for manufactured housing is hereby delegated to the Assistant Secretary for Housing-Federal Housing Commissioner.

Authority: National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, *et seq.*; Federal Advisory Committee Act, 5 U.S.C. App.; Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: August 12, 2002.

Mel Martinez,

Secretary.

[FR Doc. 02–21071 Filed 8–19–02; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4727–N–02]

Real Estate Settlement Procedures Act (RESPA); Simplifying and Improving the Process of Obtaining Mortgages to Reduce Settlement Costs To Consumers; Notice of Availability of Economic Analysis and Correction of OMB E-mail Address

AGENCY: Office of General Counsel, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD is advising the public that the Initial Economic Analysis that was prepared in connection with HUD's RESPA proposed rule, published on July 29, 2002, is available for review on HUD's Web site at *www.hud.gov.* In addition, this notice advises the public of a correction made to the e-mail address of the HUD Desk Officer at the Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: Ivy Jackson, Acting Director, Interstate Land Sales and RESPA Division, Room 9146, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0502 (this is not a toll-free number) or for legal questions Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, or Steven J. Sacks or Teresa L. Baker (Senior RESPA Attorneys); Room 9262, telephone (202) 708–3137. Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. The address for the above listed persons is: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: On July 29, 2002, HUD published its RESPA proposed rule on ''Simplifying and Improving the Process of Obtaining Mortgages to Reduce Settlement Costs to Consumers.'' (*See* 68 FR 49134.) In the rule, HUD advised that an Initial

Economic Analysis had been prepared for the rule and that the Initial Economic Analysis is available for public inspection during business hours in the Office of the Rules Docket Clerk, Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. The Economic Analysis remains available for public inspection at this location, but for the convenience of the public, HUD has also placed the Initial Economic Analysis on its Web site at *www.hud.gov.*

In this notice, HUD also advises that the e-mail address for Lauren Wittenberg, HUD Desk Officer at OMB, contained an error (see 67 FR 49159, first column). The correct email address for Ms. Wittenberg is *lauren__wittenberg@omb.eop.gov.*

Dated: August 13, 2002.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 02–21070 Filed 8–19–02; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by September 19, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–060616

Applicant: William Phifer, West Point, UT

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–060747

Applicant: Bianca T. Rudolph, Greensburg, PA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–060842

Applicant: Larry P. Davis, Clarkston, WA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–060649

Applicant: Sedgewick County Zoo, Wichita, Kansas

The applicant requests a permit to import two captive-born female jaguars (*Panthera onca*) as a two-year breeding loan from the Asunción Zoo in Paraguay for the purpose of enhancement of the propagation of the species.

PRT–707102

Applicant: Priour Brothers Ranch, Ingram, TX

The applicant requests renewal of their permit which authorizes interstate and foreign commerce, export, and cull of excess animals for the following species: swamp deer (*Cervus duvauceli*), Eld's deer (*Cervus eldi*) and red lechwe (*Kobus leche*) from their captive-raised herd for the purpose of enhancement of the survival of the species in the wild. This notification covers activities conducted by the applicant for a period of three years. Permittee must apply for renewal annually.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: August 2, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–21106 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Managers Forum

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988) and 41 CFR 101–6.1015(b). The Department of the Interior hereby gives notice of a public meeting of the Alaska Land Managers Forum (ALMF) to be held on Thursday, August 29, 2002, beginning at 9:00 a.m. It will take place in Suite 240 of the Atwood Building, 550 W. 7th Avenue, Anchorage, Alaska. This meeting will be held to hear reports on and to discuss Trails Improvement Technology Techniques, ANCSA 17(b) Easement Inventory Update and Management Strategy, Navigability Initiatives; and to receive comments from the public.

FOR FURTHER INFORMATION CONTACT: Ronald B. McCoy at (907) 271–5485.

Ron McCoy,

Coordinator, Department of the Interior, Office of the Secretary—Alaska.

[FR Doc. 02–21105 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–RP–P

DEPARTMENT OF THE INTERIOR

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt.

SUMMARY: We announce our receipt of applications to conduct certain activities pertaining to scientific

research and enhancement of survival of endangered species.

DATES: Written comments on these requests for permits must be received by September 19, 2002.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director-Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; telephone 303–236–7400, facsimile 303–236–0027.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone 303–236–7400.

SUPPLEMENTARY INFORMATION: The following applicants have requested renewal of scientific research and enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Applicant: Mark C. Belk, Brigham Young University, Provo, Utah, TE–060645.

The applicant requests a permit to take June sucker (*Chasmistes liorus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Applicant: Mark C. Reed, Sedgwick County Zoo, Wichita, Kansas, TE–060667.

The applicant requests a permit to possess Wyoming toads (*Bufo baxteri*) for public display in conjunction with recovery activities for the purpose of enhancing the species' survival and recovery.

Applicant: Mark J. Bellini, Earthtouch Environmental Consulting, Provo, Utah, TE–060668.

The applicant requests a permit to survey for Southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Applicant: Charlotte Ann Popperling, Hutchinson Zoo, Hutchinson, Kansas, TE–051824.

The applicant requests a permit to possess black-footed ferrets (*Mustela nigripes*) for public display in conjunction with recovery activities for the purpose of enhancing the species' survival and recovery.

Dated: August 5, 2002.

John A. Blankenship,

Regional Director, Denver, Colorado.

[FR Doc. 02–21086 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by September 19, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Randy Miller's Predators in Action, Inc., Big Bear City, CA, PRT–815482, 835802, and 012984.

The applicant requests a permit to export, re-export, and re-import tigers (*Panthera tigris*) to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

Applicant: Kevin M. Siembida, Columbiana, OH, PRT–060420.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Michael Bruce Allen, Vidalia, GA, PRT–060451.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: James W. Cabela, Sidney, NE, PRT–060463.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Texas A&M University at Galveston, Galveston, TX, PRT–060260.

The applicant requests a permit to import biological samples collected from live wild Kemp's ridley sea turtle (*Lepidochelys kempii*), as well as infertile and/or non-viable eggs, egg shells, and dead hatchlings for the purpose of scientific research. This notification covers activities conducted by the applicant over a five-year period.

Applicant: Hollywood Animals and Animal Rental Unlimited, Inc., Los Angeles, CA, PRT–060474.

The applicant requests a permit to export, re-export, and re-import African leopards (*Panthera pardus*) to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Hollywood Animals and Animal Rental Unlimited, Inc., Los Angeles, CA, PRT–814588.

The applicant requests the re-issuance and amendment of their permit to re-export and re-import tigers (*Panthera tigris*) to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Hollywood Animals and Animal Rental Unlimited, Inc., Los Angeles, CA, PRT–060470, 060471, 060472, and 060473.

The applicant requests a permit to re-export and re-import African leopards (*Panthera pardus*) to/from worldwide locations to enhance the survival of the species through conservation education. These animals were previously authorized under PRT–814588. This notification covers activities conducted by the applicant over a three year period.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT–060416.

The applicant requests a permit to re-export one live male giant panda (*Ailuropoda melanoleuca*) owned by the Government of China, originally imported as part of their research program in 1997, back to China. This re-export is part of the approved loan program for the benefit of the survival of the species and will allow continuation and completion of the research projects.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT–053884.

The applicant requests a permit to import one live male giant panda (*Ailuropoda melanoleuca*) owned by the Government of China. This import is part of the loan program for the benefit of the survival of the species approved in 1997 and will allow continuation and completion of the research projects.

Applicant: Saint Louis Zoological Park, Saint Louis, MO, PRT–059390.

The applicant requests a permit to import three captive-bred cheetah (*Acinonyx jubatus*), from the Wassenaar Wildlife Breeding Center, Wassenaar, The Netherlands, for the purpose of enhancement of the survival of the species through captive propagation.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Lawrence P. Rudolph, Greensburg, PA, PRT–058229.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal use.

Applicant: Thomas J. Pallansch, Elk River, MN, PRT–060217.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: July 26, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–21107 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species for the Dahle Property, El Paso County, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

On May 24, 2002, a notice was published in the **Federal Register** (Vol. 67 No. 101 FR 36644), that an application was filed with the U.S. Fish and Wildlife Service (Service) by Lee J. Dahle of the Dahle Property, El Paso County, Colorado, for a permit to incidentally take, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 USC 1539), as amended, Preble's meadow jumping mouse (*Zapus hudsonius preblei*), pursuant to the terms of the ''Low-Effect/Habitat Conservation Plan for Issuance of an Endangered Species Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) at the Dahle Property'' in El Paso County, Colorado.

Notice is hereby given that on July 29, 2002, as authorized by the provisions of the Act, the Service issued a permit (TE–056467) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional information on this permit action may be requested by contacting the Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, telephone (303) 275–2370, between the hours of 7 am and 4:30 pm weekdays.

Dated: July 29, 2002.

Ralph O. Morgenweck,

Regional Director, Region 6, U.S. Fish and Wildlife Service.

[FR Doc. 02–21087 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: On January 11, 2002, a notice was published in the **Federal Register** (67 FR 1494), that an application had been filed with the Fish and Wildlife Service by Trevor Davis for a permit (PRT–051276) to import one polar bear taken from the Norwegian Bay population, Canada, for personal use.

Notice is hereby given that on March 13, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On January 22, 2002, a notice was published in the **Federal Register** (67 FR 2900), that an application had been filed with the Fish and Wildlife Service by Ken Morrill for a permit (PRT–051613) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on April 2, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On February 8, 2002, a notice was published in the **Federal Register** (67 FR 6048), that an application had been filed with the Fish and Wildlife Service by Ralph Schaller for a permit (PRT–052375) to import one polar bear taken from the Western Hudson Bay population, Canada, for personal use.

Notice is hereby given that on March 18, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On March 7, 2002, a notice was published in the **Federal Register** (67 FR 10430), that an application had been filed with the Fish and Wildlife Service by Wayne W. Webber for a permit (PRT–052890) to import one polar bear taken from the Western Hudson Bay population, Canada, for personal use.

Notice is hereby given that on April 30, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On April 25, 2002, a notice was published in the **Federal Register** (67 FR 20544), that an application had been filed with the Fish and Wildlife Service by Richard Hawkins for a permit (PRT–055367) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on June 12, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On April 25, 2002, a notice was published in the **Federal Register** (67 FR 20544), that an application had been filed with the Fish and Wildlife Service by Jerry P. Mariska for a permit (PRT–055368) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on June 12, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On April 25, 2002, a notice was published in the **Federal Register** (67 FR 20544), that an application had been filed with the Fish and Wildlife Service by Richard B. Sapa for a permit (PRT–055302) to import one polar bear taken from the Southern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on June 19, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On May 7, 2002, a notice was published in the **Federal Register** (67 FR 30720), that an application had been filed with the Fish and Wildlife Service by Thomas P. Bruner for a permit (PRT–055566) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on June 28, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On May 30, 2002, a notice was published in the **Federal Register** (67 FR 37853), that an application had been filed with the Fish and Wildlife Service by John F. Baker for a permit (PRT–056495) to import one polar bear taken from the Southern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on July 10, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

Dated: July 26, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–21108 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Twelfth Regular Meeting; Announcement of Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), will attend the twelfth regular meeting of the Conference of the Parties to CITES (COP12) in Santiago, Chile, November 3–15, 2002. Currently, the United States is developing its negotiating positions on proposed resolutions, proposed decisions, agenda items, and proposed amendments to the CITES Appendices submitted by other countries and the CITES Secretariat for consideration at COP12. With this notice we announce a public meeting to discuss the tentative U.S. negotiating positions on these proposals and agenda items.

DATES: The public meeting will be held on September 10, 2002, at 1:30 p.m. In developing the U.S. negotiating positions on proposed resolutions, proposed decisions, agenda items, and species amendment proposals submitted by other countries and the CITES Secretariat for consideration at COP12, we will consider written information and comments you submit if we receive them by October 4, 2002.

ADDRESSES:

Public Meeting

The public meeting will be held in Sidney Yates Auditorium, in the Department of the Interior at 18th and C Streets, NW., Washington, DC. Directions to the building can be obtained by contacting the Division of Management Authority (see **FOR FURTHER INFORMATION CONTACT**, below).

Available Information

Information concerning the tentative U.S. negotiating positions for COP12 is available upon request from the Division of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 700; Arlington, VA 22203. Effective on or about September 3, 2002, this information will also be available from our World Wide Website *(http://international.fws.gov/cop12/cop12.html)* and via our Faxback system. You may obtain the information

via the Faxback system by dialing 703/358–2400, our Faxback telephone number, following the automated instructions, and entering Document Number 5054 when prompted to enter a document number.

Comment Submission

Comments pertaining to proposed resolutions, proposed decisions, and/or agenda items should be sent to the Division of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 700; Arlington, VA 22203, or via E-mail at: *cites@fws.gov,* or via fax at: 703/358–2298. Comments pertaining to species amendment proposals should be sent to the Division of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 750; Arlington, VA 22203, or via E-mail at: *scientificauthority@fws.gov,* or via fax at: 703/358–2276. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at either the Division of Management Authority or the Division of Scientific Authority.

FOR FURTHER INFORMATION CONTACT: Andrea Gaski, Division of Management Authority, Branch of CITES Operations, phone: 703/358–2095, fax: 703/358–2298, E-mail: *cites@fws.gov*; or Robert R. Gabel, Division of Scientific Authority, phone: 703/358–1708, fax: 703/358–2276, E-mail: *scientificauthority@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may be threatened with extinction if their trade is not controlled. These species are listed in Appendices to CITES, copies of which are available from the Division of Management Authority or the Division of Scientific Authority at the above addresses, from our World Wide Website at *http://international.fws.gov/cites/cites.html,* or from the official CITES Secretariat Website at *http://www.cites.org/eng/append/index.shtml.* Currently, 158 countries, including the United States, are Parties to CITES. CITES calls for biennial meetings of the Conference of the Parties, which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose and vote on amendments to Appendices I and II, resolutions, decisions, and agenda items for consideration by the Conference of the Parties.

This is our fifth in a series of **Federal Register** notices that provide you with an opportunity to participate in the development of the United States' negotiating positions for COP12. We published our first such **Federal Register** notice on June 12, 2001 (66 FR 31686), and with it we requested information and recommendations on potential species amendments for the United States to consider proposing at COP12. Information on that **Federal Register** notice, and on species amendment proposals, is available from the Division of Scientific Authority at the above address. We published our second such **Federal Register** notice on July 25, 2001 (66 FR 38739), and with it we requested information and recommendations on potential resolutions, decisions, and agenda items for the United States to submit for consideration at COP12. You may obtain information on that **Federal Register** notice, and on proposed resolutions, proposed decisions, and agenda items, from the Division of Management Authority at the above address. We published our third such **Federal Register** notice on March 27, 2002 (67 FR 14728), and with it we announced a public meeting to discuss potential species amendment proposals, proposed resolutions, proposed decisions, and agenda items that the United States is considering submitting for consideration at COP12. With that notice, we also provided information on how non-governmental organizations based in the United States can attend COP12 as observers. You may obtain information on that **Federal Register** notice from the Division of Management Authority at the above address. We published our fourth such **Federal Register** notice on April 18, 2002 (67 FR 19207), and with it we listed potential proposed resolutions, proposed decisions, agenda items, and proposed amendments to the CITES Appendices that the United States was considering submitting for consideration at COP12, and invited your comments on these potential proposals. You may obtain information on that **Federal Register** notice from the Division of Management Authority (for information pertaining to proposed resolutions, proposed decisions, and agenda items) or the Division of Scientific Authority (for information pertaining to proposed amendments to the Appendices) at the above addresses. On June 6, 2002, the United States submitted to the CITES Secretariat, for consideration at COP12, its proposed resolutions, proposed decisions, agenda items, and proposed amendments to the CITES Appendices. These documents are available from our World Wide Website at: *http://international.fws.gov/cop12/ussubmission.html.* You may locate our regulations governing this public process in 50 CFR 23.31–23.39.

COP12 is scheduled to be held in Santiago, Chile, November 3–15, 2002.

Announcement of Public Meeting

We announce that we will hold a public meeting to discuss with you the tentative U.S. negotiating positions on proposed resolutions, proposed decisions, agenda items, and proposed amendments to the CITES Appendices submitted by other countries and the CITES Secretariat for consideration at COP12. The public meeting will be held on September 10, 2002, from 1:30 p.m. to 4:30 p.m. in Sidney Yates Auditorium of the Department of the Interior at 18th and C Streets, NW., Washington, DC. You can obtain directions to the building by contacting the Division of Management Authority (see **FOR FURTHER INFORMATION CONTACT**, above). Sidney Yates Auditorium is accessible to the handicapped. Persons planning to attend the meeting who require interpretation for the hearing impaired should notify the Division of Management Authority as soon as possible. All persons planning to attend the meeting will be required to present photo identification when entering the building.

Future Actions

We are planning to soon publish a **Federal Register** notice announcing the provisional agenda for COP12 and informing you about tentative U.S. negotiating positions on proposals to amend the Appendices, proposed resolutions, proposed decisions, and other agenda items before the Parties for consideration at COP12.

Author: The primary author of this notice is Mark Albert, Division of Management Authority; under the authority of the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 24, 2002.

Marshall P. Jones, Jr.,

Acting Director.

[FR Doc. 02–21074 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for approval.

SUMMARY: The public is invited to comment on the following application for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

DATES: Written data, comments, or requests for a copy of this complete application must be received by September 19, 2002.

ADDRESSES: Written data, comments, or requests for a copy of this complete application should be sent to the Chief, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Andrea Gaski, Chief, Branch of CITES Operations, Division of Management Authority, at 703–358–2095.

SUPPLEMENTARY INFORMATION:

Applicant: Mr. David Marez of Sun Valley, California.

The applicant wishes to establish a cooperative breeding program for Abyssinian lovebird (*Agapornis taranta*). The applicant wishes to be an active participant in this program along with nine other individuals. Bird Clubs of America has agreed to assume oversight responsibility of this program if it is approved.

Documents and other information submitted with this application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice.

Dated: July 26, 2002.

Andrea Gaski,

Chief, Branch of CITES Operations, Division of Management Authority.

[FR Doc. 02–21073 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–1320–EL]

Retraction of Notice of Intent To Prepare a Land Use Analysis/ Environmental Assessment

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Retraction of intent to prepare a land use analysis/environmental assessment (LUA/EA).

SUMMARY: The Bureau of Land Management (BLM) published two notices in the **Federal Register** dated February 21, 2002; both of same title. The notice on page 8033–8034 (LUA/EA for coal lease application by Southfork Coal Company) is retracted, but will be republished with errors having been corrected. The notice on page 8034 (LUA/EA for coal lease application by Chas Coal, L.L.C.) remains correct.

FOR FURTHER INFORMATION CONTACT: John A Lewis, Bureau of Land Management, 411 Briarwood Drive, Suite 404, Jackson, MS 39206; telephone (601) 977–5437.

Dated: July 23, 2002.

Duane Winters,

Acting Field Manager.

[FR Doc. 02–21069 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–PG: GP2–0119]

Notice of Public Meeting, John Day/ Snake Resource Advisory Council Meeting

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) John Day Snake Resource Advisory Council (RAC), will meet as indicated below.

DATES: The first meeting will be held September 3, 2002 as a tour starting at the Ukiah Ranger Station, Ukiah, OR. On September 4, 2002 the RAC will meet at the Oxford Inn Suites in Pendleton, OR beginning at 8 a.m. The second meeting will be held on December 3 and 4, 2002 at the Oxford Inn Suites in Pendleton, OR, beginning at 8 a.m. both days. The public comment period will begin at approximately 1 p.m. on September 4, 2002 and December 3, 2002. All meetings will adjourn at approximately 3 p.m.

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 North East Oregon.

At the two meetings, topics we plan to discuss include:

Off-Highway Vehicle Subgroup—Issue ID/Field Trip

Hells Canyon, Blue Mountain and Noxious Weed Subgroups—Membership Approval/Review

Sage Grouse Subgroup—Identify statewide rep; primary & secondary members

JDS RACE/EO RAC—What affects both

National Fire Plan—Native Seeds

Agency Updates

Meeting Procedures

Winter Meetings/Information Sharing

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.

FOR FURTHER INFORMATION CONTACT: Virginia Gibbons at (541) 416–6700, Prineville Bureau of Land Management, 3050 NE. Third Street, Prineville, OR 97754.

Dated: August 12, 2002.

A. Barron Bail,

District Manager.

[FR Doc. 02–21052 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 10, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St., NW., Suite 400, Washington, DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by September 4, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARKANSAS

Pulaski County

Prospect Terrace Apartments, 3603 Kavanaugh Blvd., Little Rock, 02001043

Union County

McWilliams, J.H., House, 323 West Oak St., El Dorado, 02001044

GEORGIA

DeKalb County

Kirkwood School, 138 Kirkwood Rd., Atlanta, 02001045

IOWA

Black Hawk County

Chapple and Young Block, 316–318–320 Main St., La Port City, 02001025

Cerro Gordo County

MBA (Modern Brotherhood of America) Building, 103 E. State St., Mason City, 02001021

Clayton County

McGregor Commercial Historic District (Iowa's Main Street Commercial Architecture MPS), 100–300 blks of Main St., 100–200 blks. of A St., McGregor, 02001033

Dubuque County

Grand Opera House (Footlights in Farm Country: Iowa Opera Houses MPS), 135 8th St., Dubuque, 02001029

Jackson County

Rose Hill Historic District, 1400–1700 blks of Douglas St., Grandview Blvd. and Summit St., Sioux City, 02001022

Johnson County

Longfellow Historic District (Iowa City, Iowa MPS AD), Roughly bounded by Court, Rundell, Sheridan, and west boundary of Longfellow School, Iowa City, 02001023

Lee County

The Park Place—Grand Avenue Residential District, 4th at Park Place and Orleans St. and N up Grand Ave. to Rand Park, Keokuk, 02001020

Linn County

Central City Commercial Historic District (Central City, Iowa MPS), E. Main St. 300–400 blk., N. 4th St. to Commercial, Central City, 02001027

Dows Street Historic District (Ely, Iowa MPS), Dows St. bet. State and Main Sts., Ely, 02001026

Marshall County

State Center Commercial Historic District (Iowa's Main Street Commercial Architecture MPS), Main St. Blks 200–100 West and 100 East, State Center, 02001034

Mitchell County

Osage Commercial Historic District (Iowa's Main Street Commercial Architecture MPS), Main Street Blks. 700, 600 and parts of 500, Osage, 02001030

Walnut Grove School, 3272 Foothill Ave., Osage, 02001028

Montgomery County

Grant Commercial Historic District (Iowa's Main Street Commercial Architecture MPS), Parts of Second St. and U Ave., Grant, 02001031

Muscatine County

West Liberty Commercial Historic District (Iowa's Main Street Commercial Architecture MPS), Bounded by 4th St., Railroad Tracks, Clay and Spencer Sts., West Liberty, 02001035

Polk County

Hohberger Building, 502–506 E. Locust St., Des Moines, 02001019

Taylor County

Bedford Commerical Historic District (Iowa's Main Street Commercial Architecture MPS), 200–500 blks. Main St., 500–600 blks, Court, 500 blk. Central, Bedford, 02001032

Van Buren County

Vernon School, 26849 South St., Vernon, 02001024

LOUISIANA

Tangipahoa Parish

Dykes Log Cabin, 17250 State Line Rd., Kentwood, 02001036

MASSACHUSETTS

Middlesex County

Case's Corner Historic District, School, Wellesley, Newton and Ash Sts., Weston, 02001038

Plymouth County

First Trinitarian Congregational Church, 381 Country Way, Scituate, 02001037

Suffolk County

Paine Furniture Building, 75–81 Arlington St., Boston, 02001039

MISSOURI

St. Louis Independent city

Century-Syndicate Trust Building, Bounded by Locust, Ninth, Tenth and Olive Sts., St. Louis (Independent City), 02001054

NEW YORK

Erie County

St. Mary of the Angels Motherhouse Complex, 400 Mill St., Williamsville, 02001046

Otsego County

Chapin Memorial Church, 12 Ford Ave., Oneonta, 02001049

Cornfield, The, 655 Cty Rd. 26, Fly Creek, 02001047

Rockland County

Bear Mountain Inn, Seven Lakes Drive, Bear Mountain, 02001048

Suffolk County

New Suffolk School, Fifth Street at King St., New Suffolk, 02001050

Warren County

Mixter Blacksmith Shop, 27 Main St., Warrensburg, 02001051

OHIO

Summit County

Smith, William, House (Canal, Railroad, and Industrial Resources of the Village of Clinton/Warwick, Ohio MPS), 7894 Main St., Clinton, 02001052

UTAH

Emery County

Lemmon, Leander, House, 45 West Center, Huntington, 02001040

Salt Lake County

Sarah Daft Home for the Aged, 737 S. 1300 East, Salt Lake City, 02001041

San Juan County

St. Christopher's Episcopal Mission, UT 163, Bluff, 02001042

WEST VIRGINIA

Nicholas County

Brown, Dr. Flavius, House, Old Wilderness Rd., Summersville, 02001053

A request for *removal* has been made for the following resources:

IOWA

Allamakee County

Meier, Fred W., Round Barn (Iowa Round Barns: The Sixty Year Experiment TR), Off IA 9 Ludlow, 86001411

SOUTH DAKOTA

Todd County

Rosebud Agency, Main St. and Legion Ave., Rosebud, 80003733

[FR Doc. 02–21034 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–477]

Certain Ammonium Octamolybdate Isomers; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 18, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Climax Molybdenum Company of Phoenix, Arizona. A letter supplementing the complaint was filed on August 7, 2002. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ammonium octamolybdate isomers by reason of infringement of claim 1 of U.S. Letters Patent 5,985,236. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: James B. Coughlan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2221.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2002).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on August 14, 2002, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ammonium octamolybdate isomers by reason of infringement of claim 1 of U.S. Letters Patent 5,985,236, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is Climax Molybdenum Company, One North Central Ave., Phoenix, Arizona 85004.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Molychem LLC, 2625 Sewell St., Rockford, Illinois 61109.

(c) James B. Coughlan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–L, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

A response to the complaint and the notice of investigation must be submitted by the named respondent in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such a response will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting a response to the complaint will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against the respondent.

Issued: August 15, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–21160 Filed 8–19–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Policing Services

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: New Secure Our Schools Act Grant Application Kit.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 111, page 39742 on June 10, 2002, allowing for a 60 day comment period. The purpose of this notice is to allow for an additional 30 days for public comment until September 19, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected

agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Secure Our Schools Act Grant Application Kit.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. U.S. Department of Justice, Office of Community Oriented Policing Services (COPS). Affected public who will be asked or required to respond, as well as a brief abstract: *Primary:* Law enforcement agencies in collaboration with schools to improve security in and on school grounds. *Other:* None. *Abstract:* The information collected will be used by the COPS Office to determine grantee's eligibility for funding under the Secure Our Schools Act Grant Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 100 responses. The estimated amount of time required for the average respondent to respond is 9 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 900 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: August 14, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–21110 Filed 8–19–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: New Collection OJJDP National Training and Technical Assistance Center (NTTAC) user feedback form.

The Department of Justice (DOJ), Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until October 21, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marilyn Landon, (202) 616–3648 Office of Justice Programs, US Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* NTTAC User Feedback Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Office of Justice Programs, US Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local or Tribal Government; Individuals or households; Not-for-profit institutions; Businesses or other for-profit. The NTTAC User Feedback Form is designed to collect the data necessary to continuously improve customer service intended to meet the needs of the juvenile justice field at-large and the OJJDP-funded TA provider network. Within 15 days of satisfying a request for technical assistance (TA), NTTAC staff will send this Form to TA requester to capture important feedback on the TA requester's satisfaction with the quality, efficiency, referrals, and resources of the NTTAC.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 290 responses, one for each respondent. The estimated amount of time required for the average respondent to respond is 8 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 2,320 burden hours annually associated with this information collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: August 14, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–21109 Filed 8–19–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 01–45]

Chattem Chemicals, Inc., Chattanooga, Tennessee; Notice of Administrative Hearing, Summary of Comments and Objections; Notice of Hearing

This Notice of Administrative Hearing, Summary of Comments and Objections, regarding the application of Chattem Chemicals, Inc. (Chattem), for registration as an importer of the Schedule II controlled substances raw opium and poppy straw concentrate is published pursuant to 21 CFR 1301.34(a). On August 10, 2001, notice was published in the **Federal Register**, 65 FR 42239 (DEA 2001), stating that Chattem has applied to be registered as an importer of amphetamine, methamphetamine, phenylacetone, thebaine, raw opium, and poppy straw concentrate.

On September 7, 2001, Organichem Corporation (Organichem), filed comments and a request for hearing on Chattem's application with respect to amphetamine. On September 10, 2001, Noramco of Delaware, Inc. (Noramco), filed comments and a request for hearing on Chattem's application with respect to raw opium, poppy straw concentrate, and thebaine; and Penick Corporation (Penick), filed comments and requested a hearing on Chattem's application with respect to raw opium, poppy straw concentrate, thebaine, phenylacetone, methamphetamine, and amphetamine. On September 13, 2001, Mallinckrodt, Inc. (Mallinckrodt), filed a request for hearing on Chattem's application with respect thebaine, raw opium, amphetamine, and poppy straw concentrate. On December 5, 2001, Chattem withdrew its application with respect to amphetamine and thebaine; thus the comments of other manufacturers with respect to these substances are moot and Organichem is not a party to this proceeding. Subsequently, Penick limited its request for a hearing to Chattem's application to import raw opium and poppy straw concentrate. Notice is hereby given that a hearing with respect to Chattem's application to be registered as an importer of raw opium and poppy straw concentrate will be conducted pursuant to the provisions of 21 U.S.C. 952(a) and 958 and 21 CFR 1301.34.

Hearing Date: The hearing will begin at 9:30 a.m. on September 23, 2002, and will be held at the Drug Enforcement Administration Headquarters, 600 Army Navy Drive, Hearing Room, Room E–2103, Arlington, Virginia. The hearing will be closed to any person not involved in the preparation or presentation of the case.

Notice of Appearance: Any person entitled to participate in this hearing pursuant to 21 CFR 1301.34, and desiring to do so, may participate by filing a notice of intention to participate, in triplicate, and in accordance with 21 CFR 1301.34, with the hearing Clerk, Office of Administrative Law Judges, Drug Enforcement Administration, Washington, DC 20537, within 30 days of the date of publication of this notice in the **Federal Register**. Each notice of appearance must be in the form prescribed in 21 CFR 1316.48. Chattem, Penick, Noramco, Mallinckrodt, and DEA Office of Chief Counsel need not file a notice of intention to participate.

For Further Information Contact: Helen Farmer, Hearing Clerk, Drug Enforcement Administration, Office of Administrative Law Judges, Washington, DC 20537; Telephone (202) 307–8188.

Summary of Comments and Objections

Noramco's Comments: Noramco asserts that Chattem bears the burden of proving that its registration to import would be consistent with the public interest, that because Chattem lacks experience manufacturing active pharmaceutical ingredients from raw opium and poppy straw concentrate, it will be difficult for Chattem to produce these materials as efficiently as existing registrants, thereby aggravating the long-term shortage of narcotic raw materials. Noramco also states that existing manufacturers of bulk narcotic substances are producing an adequate and uninterrupted supply under adequately competitive conditions

Penick's Comments: Penick states that Chattem bears the burden of proving that its registration would be consistent with the public interest, that there needs to be a finding of the sufficiency of adequate competition in the marketplace, that it is not possible to determine Chattem's capabilities for processing opium or poppy straw concentrate, that Chattem lacks experience in the processing of opium and poppy straw concentrate, and there is insufficient public information about Chattem's knowledge and prior experience in the international marketplace.

Dated: August 14, 2002.

John B. Brown III,

Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 02–21187 Filed 8–19–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 12, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1996 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Affected Public: Individuals or households

Form	Total respondents	Frequency	Total responses	Average minutes	Estimated total burden (in hours)
CE Quarterly Interview (CAPI) Instrument	9,629	4	38,516	90	57,774
Quarterly Interview Re-interview	2,118	1	2,118	15	530
CE Diary: CE–801, Record of Your Daily Expenses	7,745	2	15,490	105	27,108
CE Diary: CE–802, Household Questionnaire	7,745	3	23,235	25	9,681
CE Diary Re-interview: CE–880, CE–880 (N)	1,293	1	1,293	12	259
Total	17,374		80,652		95,352

Please note: Re-interview respondents are a subset of the original number of respondents for each survey. Therefore, they are not counted again in the totals.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Consumer Expenditure (CE) Surveys are used to gather information on expenditures, income, and other related subjects. These data are used to periodically update the National Consumer Price Index. The BLS will use data collected in the CE Surveys to (1) provide data required for the CPI revision; (2) provide a continuous flow of data on income and expenditure patters for use in economic analysis and policy formulation; and (3) provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. In addition, the data are used by a variety of researchers in academia and the private sector. The data are collected from a national probability sample of households designed to represent the total civilian non-institutional population. The BLS conducts the CE Survey under the authority of Title 29, Section 2 of the United States Code. The Census Bureau collects information in the CE Surveys under the authority of Title 13, United States Code, Section 8b, that allows the Census Bureau to undertake surveys for other agencies.

Ira L. Mills

DOL Clearance Officer.

[FR Doc. 02–21088 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 7, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics (BLS).

Title: CPS Volunteer Supplement.

OMB Number: 1220–0NEW.

Affected Public: Individuals or households.

Frequency: On Occasion.

Number of Respondents: 58,000.

Number of Annual Responses: 116,000.

Total Burden Hours: 5,800.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Volunteer Supplement will provide information on the total number of individuals in the United States involved in unpaid volunteer activities, factors that motivate volunteerism, measures of the frequency or intensity with which individuals volunteer, types of organizations that facilitate volunteerism, and activities in which volunteers participate. The BLS is undertaking this project at the request of the USA Freedom Corps that seeks to promote a culture of responsibility, service, and citizenship. The Volunteer Supplement will provide the ability to accurately and reliably measure the current level of volunteer activities in the U.S.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 02–21089 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 6, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316),

within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Labor Organization and Auxiliary Reports.

OMB Number: 1215–0188.

Affected Public: Not-for-profit institutions; Business or other for-profit; and Individuals or households.

Frequency: Semi-annually and Annually.

ESTIMATED TIME PER RESPONSE AND TOTAL BURDEN HOURS

Form name	Responses/respondents	Hours per respondent (reporting)	Burden hours (reporting)	Minutes per respondent (record-keeping)	Burden hours (record-keeping)	Total burden hours
LM–1	253	0.83	210	5	21	231
LM–2	5,932	14.75	87,497	30	2,966	90,463
LM–3	12,722	6.5	82,693	15	3,181	85,874
LM–4	8,108	0.83	6,730	2	270	7,000
LM–10	116	0.50	58	5	10	68
LM–15	427	1.50	641	20	142	783
LM–15A	71	0.33	23	2	2	25
LM–16	110	0.33	36	1	2	38
LM–20	231	0.33	76	2	8	84
LM–21	36	0.50	18	5	3	21
LM–30	139	0.50	70	5	12	82
S–1	82	0.50	41	5	7	48
SARF*	2,142	0.17	364	2	71	435
Total	30,369		178,457		6,695	185,152

*Simplified Annual Report Format.

Total Annualized Capital/Startup Costs: $0.

Total Annual Cost (operating/maintaining systems or purchasing services): $0.

Description: The Labor-Management Reporting and Disclosure Act (LMRDA) requires unions to file annual financial reports, and copies of their constitution and bylaws with the Department of Labor (DOL). Under certain circumstances, reports are required of union officers and employees, employers, labor relations consultants, and surety companies. Filers are required to retain supporting records for five years; unions are required to retain election records for one year. All reports are available for public disclosure. Information supplied on the reports may be utilized by union members to help self-govern their unions, by the general public, and as research material for both outside researches and within DOL. The information is also used to assist DOL and other government agencies in detecting improper practices on the part of labor organizations, their officers and/or representatives, and is used by Congress in oversight and legislative functions. The following is a list of the reporting forms contained in this information collection and their regulatory and legislative citations: LM–1, Labor Organization Information Report, 29 CFR 402, 29 U.S.C. 431(a); LM–2, Labor Organization Annual Report, 29 CFR 402.5 and 403.3; 29 U.S.C. 431(b); LM–3, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b); LM–4, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b); LM–10, Employer Report, 29 CFR part 405, 29 U.S.C. 433(a); LM–15, Trusteeship Report, 29 CFR part 408, 29 U.S.C. 461; LM–15A, Report on Selection of Delegates and Officers, 29 CFR part 408, 29 U.S.C. 461; LM–16, Terminal Trusteeship Report, 29 CFR part 408, 29 U.S.C. 461; LM–20, Agreement and Activities Report, 29 CFR part 406, 29 U.S.C. 433(b); LM–21, Receipts and Disbursements Report, 29 CFR part 406, 29 U.S.C. 433(b); LM–30, Labor Organization Officer and Employee Report, 29 CFR part 404, 29 U.S.C. 432; S–1, Surety Company Annual Report, 29 CFR part 409, 29 U.S.C. 441; and Simplified Annual Report Format, 29 CFR part 403, 29 U.S.C. 431(b).

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–21090 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–CP–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,352; Dana Corp., Perfect Circle Div., Richmond Machining Plant, Richmond, IN

TA–W–41,158; P/E Technologies, Inc., Cleveland, OH

TA–W–41,510; Chicago Bridge and Iron, Provo, UT

TA–W–41,452; American Paper Tube, Port Gibson, MS

TA–W–41,398; Acordis Cellulosic Fibers, Inc., Axis, AL

TA–W–41,442; Ponderosa Pulp Products, Oshkosh, WI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,367 & A,B; Schlumberger Oilfield Services, Lafayette, LA, New Iberia, LA and Houma, LA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,685; Ingersoll-Rand Co., Kentucky Design Center, Mayfield, KY

TA–W–41,246; Avanticase-Hoyt Corp., Chili, NY

TA–W–41,568; Invensys Sensor Systems, Clarostat Sensors and Controls, Molding Dept., El Paso, TX

TA–W–41,497; Furnimex Products USA, Inc., Charm House Manufacturing, Sumter, SC

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–41,575; Schlumberger Oilfield Services, Well Services Division, Midland, TX

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,141; Garan, Inc., Kaplan, LA: February 8, 2001.

TA–W–41,511; BP Exploration Alaska, Inc., Anchorage, AK: April 16, 2001.

TA–W–41,521; Dekko Engineering, Manitowoc, WI: April 16, 2001.

TA–W–41,584; Square D Company, Oshkosh, WI: April 14, 2002.

TA–W–41,641; Southwest Cupid, Bristow, OK: May 21, 2001.

TA–W–41,677; Ames True Temper, Plant #2, Parkersburg, WV: May 17, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof (including workers in any agricultural firm or appropriate subdivision thereof), have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06009; Dana Corp., Perfect Circle Div., Richmond Machining Plant, Richmond, IN

NAFTA–TAA–06032; Ameripol Synpol Corp., Odessa, TX

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06030 & A, B; Schlumberger Oilfield Services, Lafayette, LA, New Iberia, LA and Houma, LA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06195; Invensys Sensor Systems, Clarostat Sensors and Controls, Molding Department, El Paso, TX: April 29, 2001

NAFTA–TAA–06226; Fender Musical Instruments Corp., Corona, CA: May 17, 2001

NAFTA–TAA–06152; Telect, Liberty Lake, WA: April 19, 2001.

I hereby certify that the aforementioned determinations were issued during the month of August, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 12, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–21097 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39, 749, TA–W–39, 749A, and TA–W–39, 749B]

BHP Copper, Inc, Pinto Valley, Miami, AZ; BHP Copper, Inc., Tucson/San Manuel Operations, Tucson/San Manuel, AZ; BHP Copper, Inc., Robinson Operations, Ely, NV; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on March 25, 2002,

applicable to workers of BHP Copper, Inc., Pinto Valley, Miami, Arizona. The notice was published in the **Federal Register** on April 5, 2002 (67 FR 16441).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations occurred at the Tucson/San Manuel Arizona Operations and the Robinson Operations, Ely, Nevada location of BHP Copper, Inc.

Workers at the Tucson/San Manuel operation were engaged in the production of copper cathode until all plant production ceased in March, 2002. Workers at the Robinson operations were retained after all plant production ceased in 1999 to maintain the operating equipment and to facilitate the closing of the operation. Workers separated at the Robinson facility were previously certified for TAA in August, 1999 (TA–W–36,531A).

Based on these findings, the Department is amending the certification to include workers of the Tucson/San Manuel Operations and Robinson Operations, Ely, Nevada locations of BHP Copper, Inc.

The intent of the Department's certification is to include all workers of BHP Copper, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA–W–39, 749 is hereby issued as follows:

All workers of BHP Copper, Inc., Pinto Valley, Miami, Arizona (TA–W–39,749), BHP Copper, Inc., Tucson/San Manuel Operations, Tucson/San Manuel, Arizona (TA–W–39,749A) and BHP Copper, Inc., Robinson Operations, Ely, Nevada (TA–W–39,749B) who became totally or partially separated from employment on or after July 11, 2000, through March 25, 2004, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of August, 2002.

Edward A. Tomchick,

Division, Division of Trade Adjustment Assistance.

[FR Doc. 02–21093 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,527]

BHP Copper, Inc., Tucson, AZ, Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 13, 2002 in response to a worker petition which was filed on behalf of workers at BHP Copper, Inc., Tucson, Arizona.

An active certification covering the petitioning group of workers is already in effect (TA–W–39,749A, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 8th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–21102 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,446]

Duel Systems, a Wholly Owned Subsidiary of Methode Electronics, San Jose, California; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 29, 2002 in response to a petition filed by a company official on behalf of workers at Duel Systems, a wholly owned subsidiary of Methode Electronics, San Jose, California.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 5th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–21098 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,155 and TA–W–41,155A]

International Steel Wool Corp., a Subsidiary of F.H. Bonn Co., Springfield, OH; International Steel Wool Corp., a Subsidiary of F.H. Bonn Co., Headquarters Office, Mission, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 30, 2002, applicable to workers of International Steel Wool Corp., a Subsidiary of F.H. Bonn Co., Springfield, Ohio. The notice was published in the **Federal Register** on May 17, 2002 (67 FR 35143).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations occurred at the Headquarters Office located in Mission, Texas. The workers at the Mission, Texas location provide administrative services supporting the production of annealed steel wool at the Springfield, Ohio facility of the subject firm.

Based on these findings, the Department is amending the certification to include workers of International Steel Wool Corp., Headquarters Office, Mission, Texas.

The intent of the Department's certification is to include all workers of International Steel Wool Corp. A subsidiary of F. H. Bonn Co., who were adversely affected by increased imports.

The amended notice applicable to TA-W–41,155 is hereby issued as follows:

All workers of International Steel Wool Corp., Springfield, Ohio (TA-W–41,155), and International Steel Wool Corp., Headquarters Office, Mission, Texas (TA-W–41,155A), who became totally or partially separated from employment on or after March 25, 2001, through April 30, 2004, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 12 day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–21095 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,260]

Laird Technologies, Asheboro, NC; Notice of Negative Determination Regarding Application for Reconsideration,

By application dated July 26, 2002, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on July 2,

2002 and published in the **Federal Register** on July 18, 2002 (67 FR 47400).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Laird Technologies, Asheboro, North Carolina engaged in the production of Electromagnetic Interface (EMI) and Radio Frequency Interface (RFI) Shielding, was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of EMI/RFI shielding in 2000 and 2001. The customers reported either no imports or declining imports during the relevant period. The subject firm did not import EMI/RFI shielding during the relevant period. Laird Technologies is transferring production from Asheboro, North Carolina to other affiliated domestic facilities.

The petitioner appears to be indicating the company is building a production plant in China and sometime in the future the Chinese plant will be producing products like or directly competitive with what the subject plant produced. The petitioner believes the shift in production to China meets the eligibility requirements of the Trade Act of 1974, as amended.

A shift in production to a foreign source under TAA is not a relevant factor in meeting the eligibility requirement under section 222(3) of the Trade Act of 1974, as amended. Any potential imports of Electromagnetic Interface (EMI) and Radio Frequency Interface (RFI) Shielding into the United States from the Chinese plant must enter the United States during the relevant period of the investigation to meet the eligibility requirement of section 222(3) of the Trade Act of 1974, as amended.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 12th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–21096 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,475]

Ruger Equipment, Inc., Urichsville, Ohio; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 19, 2002, the United Steelworkers of America, Local 2737–10 requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The denial notice was signed on July 8, 2002, and published in the **Federal Register** on July 22, 2002 (67 FR 47861).

The petitioner supplied a list of customers unavailable during the original investigation. The Department of Labor will conduct a survey of these customers to determine if imports contributed importantly to the declines in employment at the subject plant.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 12th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–21099 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 30, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 30, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 5th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 08/05/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
41,911	Sappi Fine Paper Mill (Comp)	Muskegon, MI.	03/26/2002	Fine Coated Paper Products.
41,912	ADC Telecommunications (Wrks)	Shakopee, MN.	06/11/2002	Fiber Optics and Telecommunication Equip.
41,913	Barrick Gold Corp (Comp)	Eureka, NV ..	07/18/2002	Gold.
41,914	Tom Harmon Logging (Comp)	LaPine, OR	07/15/2002	Wood Chips.
41,915	Mountain High Timber (Comp)	LaPine, OR	07/15/2002	Wood Chips.
41,916	Emess Design Group, LLC (AFGWD)	Ellwood City, PA.	07/15/2002	Lighting Products.
41,917	Susquehanna Pfaltzgraff (Wrks)	York, PA	07/12/2002	Dinnerware.
41,918	Unilever Best Foods (Wrks)	Santa Cruz, CA.	07/24/2002	Tea Bags.
41,919	Saint-Gobain Abrasives (PACE)	Niagara Falls, NY.	07/18/2002	Abrasive Products (Sheets, Rolls).
41,920	BAE Systems (Wrks)	Wellington, KS.	07/01/2002	Boeing Aircraft Parts.
41,921	Delphi Packard Electric (IUE)	Gadsden, AL	07/24/2002	GM Wiring Harnesses & Distribution System.
41,922	Porterco, LLC (Comp)	Magnolia, AR	07/23/2002	Rifle & Shotgun Slings, Garment Carriers.
41,923	Phelps Dodge Hidalgo (Comp)	Playas, NM ..	07/24/2002	Anode Copper and Sulfuric Acid.
41,924	McDonald Woodworks, Inc. (Wrks)	Philadelphia, MS.	07/17/2002	Wooden Shipping Pallets, Crates, Bases.
41,925	Flowserve (Comp)	Springville, UT.	07/18/2002	Control Valves and Actuators.
41,926	Atlas Alchem Plastic (IBT)	Conneaut, OH.	07/19/2002	Polyethylene and Polypropylene Sheets.
41,927	David Stevens (UNITE)	Blackwood, NJ.	07/25/2002	Women's Apparel.
41,928	Veco Alaska (Comp)	Anchorage, AK.	07/16/2002	Crude Oil.
41,929	Mel, Inc. (Comp)	Winchester, MA.	07/20/2002	Convert Griege Materials.
41,930	Lapror Plastics (Co.)	Manitowoc, WI.	07/25/2002	Handles and Knobs.
41,931	Vertical Aviation Tech. (Comp)	Sanford, FL	01/25/2002	Helicopters.
41,932	Jet Craft Boats (Wrks)	Medford, OR	07/29/2002	Aluminum Boats.
41,933	Agere Systems, Inc. (IBEW)	Orlando, FL	02/15/2002	Semiconductor Products.

[FR Doc. 02–21091 Filed 8–19–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5952 and TA–W–40,976]

Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, TX; Notice of Revised Determination on Reconsideration

By letter dated June 21, 2002, the company, requested administrative reconsideration of the Department's denial of North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) and Trade Adjustment Assistance (TAA), applicable to workers of Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, Texas. The denial notice applicable to NAFTA–05952 was signed on May 20, 2002 and the denial notice for TA–W–40,976 was signed on May 23, 2002. The notices were published in the **Federal Register** on June 11, 2002, for NAFTA–5952 (67 FR 40005) and for TA–W–40,976 (67 FR 40004).

The workers of Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, Texas engaged in activities related to the production of newsprint and specialty paper were denied NAFTA–TAA because criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act of 1974, as amended, were not met. The subject firm did not import newsprint and specialty paper from Canada or Mexico during the relevant period. There was no shift in the production of newsprint and specialty paper from the subject firm to Canada or Mexico during the relevant period.

The workers of Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, Texas were denied TAA because criterion (3) of the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, was not met. Imports did not contribute importantly to the worker separations during the relevant period.

The petitioner states that they responded to the Department's questions on a subsidiary perspective only, rather than on a company-wide basis. Thus they did not indicate the parent company, a Canadian based newsprint manufacturer, imported newsprint products to the United States.

The Department contacted the company requesting further information concerning the allegation. The company provided additional information showing the company increased their reliance on imported Canadian newsprint paper from their parent company located in Canada. The imports from Canada replaced a meaningful portion of the subject plant's production as subject plant production was phased out during the relevant period.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is

concluded that increased imports of newsprint paper, including imports from Canada, contributed importantly to the decline in production and to the total or partial separation of workers at Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, Texas. In accordance with the provisions of the Act, I make the following revised determination:

All workers at Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, Texas (NAFTA–5952), who became totally or partially separated from employment on or after February 24, 2001, through two years from the date of certification, are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974;'' and

''All workers at Abitibi Consolidated, Donohue Industries, Inc., Lufkin Division, Lufkin, Texas (TA–W–40,976), who became totally or partially separated from employment on or after January 20, 2001, through two years from the date of certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 13th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–21094 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05663]

Exide Technologies, Transportation Global Business Unit, Shreveport, Louisiana; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of June 28, 2002 the International Union, UAW, Region 5 and Local Union 1532 requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance. The denial notice was signed on May 16, 2002 and published in the **Federal Register** on June 4, 2002 (67 FR 38522).

The petitioner supplied a list of additional customers they believe should be surveyed, since they feel the Department did not survey the correct customers for the relevant period. On further review, the Department will conduct a survey of these customers to determine if imports contributed importantly to the declines in employment at the subject plant.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 12th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–21100 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon Notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than August 30, 2002.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown not later than August 30, 2002.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 14th day of August, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
GL and V USA (Co.)	Nashua, NH	07/29/2002	NAFTA–6, 419	Baffle filters, disk filters, screens.
Seton Company (Co.)	Saxton, PA	08/02/2002	NAFTA–6, 420	Cut-to-pattern leather pieces for autos.
Buck Forkardt Inc. (USWA)	Kalamazoo, MI	07/31/2002	NAFTA–6, 421	Chuck pinions, chuck scrolls, cast.
Matsushita Home Appliance Corp. (Wkrs).	Danville, KY	08/01/2002	NAFTA–6, 422	Vacuum cleaners.
Exxon Mobil Corporation (Wkrs)	Gibsonia, PA	08/02/2002	NAFTA–6, 423	Grease.
Potlatch Corporation (Wkrs)	Warren, AR	08/02/2002	NAFTA–6, 424	Lumber production.
Fort Darborn Company (Wkrs)	Coldwater, MI	07/31/2002	NAFTA–6, 425	Food labels.
Mahoning Mills, Inc. (Wkrs)	Kutztown, PA	08/02/2002	NAFTA–6, 426	Under garments.
Samuel Whittar (USWA)	Detroit, MI	07/31/2002	NAFTA–6, 427	Strip steel fabrication.
Jet Craft Boats of Oregon (Wkrs)	Medford, OR	08/01/2002	NAFTA–6, 428	Aluminum boats.
Valeo Switches and Detection Systems (Co.).	Ft. Worth, TX	08/02/2002	NAFTA–6, 429	Switches and detection systems.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Scranton Lace Company (Wkrs)	Scranton, PA	08/01/2002	NAFTA–6, 430	Tablecloths, curtains, napkins, runners.
Celestica (Co.)	Mt. Pleasant, IA	08/01/2002	NAFTA–6, 431	Two-way FM radios.
Emess Design Group, LLC (AFGWU).	Ellwood City, PA	07/31/2002	NAFTA–6, 432	Lamps, lighting design products.
G and G Sewing Machine Company (Co.).	Dunmore, PA	07/31/2002	NAFTA–6, 433	Sewing equipment, parts, customized unit.
International Data (Wkrs)	El Paso, TX	07/30/2002	NAFTA–6, 434	Data entry/customer service.
A.O. Smith Electrical Products (Co.)	Scottsville, KY	07/29/2002	NAFTA–6, 435	Stator and coil electric motor assemblie.
Buffalo Color Corp. (Wkrs)	Buffalo, NY	07/30/2002	NAFTA–6, 436	Indigo dye for denim.
Ohmits Manufacturing (Wkrs)	Skokie, IL	07/12/2002	NAFTA–6, 437	Electrical resistors.
Corbin Limited (UNITE)	Ashland, KY	08/05/2002	NAFTA–6, 438	Men and women's tailored suits.
Encompass Group, LLC (Co.)	Eastman, GA	07/31/2002	NAFTA–6, 439	Healthcare apparel.
ADC Telecommunications (Wkrs)	Shakopee, MN	06/11/2002	NAFTA–6, 440	Telecommunications equipment.
Helsapenn (UNITE)	Philadelphia, PA	08/05/2002	NAFTA–6, 441	Shoulder pads.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Flextronics Enclosure Systems (Co.)	Elk Grove Village, IL	08/05/2002	NAFTA–6, 442	Sheet metal computer parts.
Tellabs, Inc. (Wkrs)	Burlington, MA	07/31/2002	NAFTA–6, 443	Telecommunications system for metro appl.
Trinity Industries (Wkrs)	Butler, PA	07/26/2002	NAFTA–6, 444	Railroad freight car parts.
Creo (Wkrs)	Bedford, MA	08/05/2002	NAFTA–6, 445	Scanning equipment.
Pabst Meat Supply (Wkrs)	Invergrove Height, MN	08/05/2002	NAFTA–6, 446	Frozen hamburger patties.
ADC Telecommunications (Wkrs)	Shakopee, MN	08/05/2002	NAFTA–6, 447	Telecommunications.
Crown Cork and Seal (IAM)	Portland, OR	08/05/2002	NAFTA–6, 448	Metal can ends.
IMI Cornelius (Wkrs)	Anoka, MN	07/09/2002	NAFTA–6, 449	Beverage dispensers.
ADC Telecommunications (Wkrs)	Eden Prairie, MN	08/05/2002	NAFTA–6, 450	Optical connecting switching equipment.
Celestica Corp. (Co.)	Rochester, MN	08/12/2002	NAFTA–6, 451	Printed circuit assemblies.
National Torch Tip (IUE)	Pittsburgh, PA	08/12/2002	NAFTA–6, 452	Torch tips.
U.S. Manufacturing (Wkrs)	Bad Axe, MI	08/12/2002	NAFTA–6, 453	Manual steering gear.
Peterson Spring (UAW)	Three Rivers, MI	08/12/2002	NAFTA–6, 454	Auto parts.
Pella Plastics (Co.)	So. Pittsburgh, TN	08/02/2002	NAFTA–6, 455	Plastic molded parts.
C.R. Bard (Co.)	Mentor, OH	08/06/2002	NAFTA–6, 456	Medical devices.
Clore Automotive (Co.)	Bloomington, MN	08/08/2002	NAFTA–6, 457	Battery chargers.
Versa Tool (Wkrs)	Meadville, PA	08/12/2002	NAFTA–6, 458	Injection molds.
Competitive Engineering (Co.)	Tucson, AZ	08/10/2002	NAFTA–6, 459	Precisioned machined parts.
Damas, Inc (Wkrs)	Long Island City, NY	08/01/2002	NAFTA–6, 460	Knits garments.
Dimension Tech (Wkrs)	Ironwood, MI	08/06/2002	NAFTA–6, 461	Acture frame moulding.
Dunbrooke Industries (Co.)	El Dorado Spring, MO	08/06/2002	NAFTA–6, 462	Apparel.
Baker Ewter Prize (Wkrs)	Alphena, MI	08/09/2002	NAFTA–6, 463	Blocks.
Saturn Electronics and Engineering (Wkrs).	Auburn Hills, MI	08/08/2002	NAFTA–6, 464	Electronic boards & modules.
Corning (Co.)	Concord, NC	08/09/2002	NAFTA–6, 465	Optical fiber technology.
Welcast Plastics-Harris Welco (Co.)	Barberton, OH	06/24/2002	NAFTA–6, 466	Plastic lens.

[FR Doc. 02–21092 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6269]

Kraft Foods, Inc., Beverages Division, Chicago, Illinois; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on June 12, 2002, in response to a petition filed by a company official on behalf of workers at Kraft Foods, Inc., Beverages Division, Chicago, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–21101 Filed 8–19–02; 8:45 am]

BILLING CODE 4510–30–P

LEGAL SERVICES CORPORATION

Development of a National Reporting System to Collect Performance and ''Outcomes'' information on the Results of the Services Provided by LSC-funded Grantees to Eligible Clients

AGENCY: Legal Services Corporation.

ACTION: Request for Information on the Development of a National Reporting System to Collect Performance and ''Outcomes'' Information on the Results of the Services Provided by LSC-funded Grantees to Eligible Clients.

SUMMARY: This notice is a request for information for use by the Legal Services Corporation regarding the Development of a National Reporting System to Collect ''Outcomes'' Information on the Results of the Services Provided by LSC-funded grantees to Eligible Clients.

ADDRESSES: Two (2) copies of written submissions should be addressed to Wendy Burnette, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250.

DATES: Information must be submitted by 5 p.m., September 28, 2002.

FOR FURTHER INFORMATION CONTACT: Randi Youells or Michael Genz, Legal Services Corporation, 750 1st Street NE., Washington, DC 20002–4250.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (LSC) is a private, nonprofit corporation established by the Congress of the United States to ensure equal access to justice under the law by providing legal assistance in civil matter to low-income individuals. LSC is headed by an 11-member board of directors, appointed by the President and confirmed by the Senate.

LSC does not itself provide legal services to low-income Americans. The Corporation is authorized by Congress to make grants and contracts to support the provision of civil legal assistance to clients who meet eligibility requirements. LSC develops and administers policy consistent with Congressional mandate, secures and receives federal appropriations and allocates these appropriations to not-for-profit legal services organizations throughout the county; assures that grantees of LSC funds comply with federal law and regulations; and guarantees the delivery of high quality services to eligible low-income people in the United States and its territories. LSC makes grants to organizations that provide legal assistance to indigent persons throughout the United States, Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, and Micronesia. LSC grants federal dollars to independent local programs chosen through a system of competition.

As a delivery *system*, legal services programs provide a full range of services to eligible clients. While grantees provide many kinds of services to clients, all are reported to LSC as either cases (the CSR reporting system) or matters (the MSR reporting system). However, neither CSR nor MSR statistics give any information on the outcome of a particular case. In fact, the CSR system reveals very little about a case closed by and LSC-funded grantee other than the following:

- That the grantee accepted the case, that is, the case met the eligibility guidelines established by the program's board and by LSC;
- That the case was 'completed' or closed within the calendar year covered by the CSR submission;
- The manner in which the case was handled, such as 'advice'; and
- The general area of law in which the case falls (e.g., housing law, family law).

This is perceived as problematic for several reasons:

(1) By simply counting closed cases the CSR system reduces the provision of legal services to a number rather than helping us understand what changes grantees have made in the lives of our clients and their communities.

(2) Reducing to a single number (a 'closed case') the services that a grantee provides to a client makes the work of grantees seem easy and undemanding.

(3) Because the CSR data do not measure performance and outcomes, it does not allow LSC and its grantees to objectivity track whether we are expanding access and improving performance quality as required by LSC's five-year Strategic Plan.

(4) CSR data do not allow for comparisons of grantees in terms of the efficiency and effectiveness of grantees' work for clients. Although we are able to extrapolate 'cost-per-case' from the CSR data, the data do not enable us to identify which grantees are working ineffectively or do not otherwise meet the standards commonly expected of high quality legal services providers. Conversely, we cannot objectivity identify our strongest programs so that we can understand what makes them 'best' in order to replicate them.

(5) The CSR/MSR data do not present information that allows the legal service community to draw reasonable conclusions about what happened to those clients who were given advice or brief service, or who received assistance through a service classified by LSC as a 'matter,' such as the receipt of community legal education materials.

Request for Information

LSC invites interested parties to submit written information relevant to the development of outcomes measures for legal services programs. Information provided through public submission will be considered by the Legal Services Corporation in developing a strategy to design a data system to supplant or supplement the current CSR and MSR systems.

Materials submitted should be confined to the specific topic of the study. In particular, the LSC is seeking written submissions on the following topics: outcomes and related performance measurement systems for legal services programs currently in use across the country; optimal ways to assess equity, quality, and efficiency within and across legal services agencies; the types of performance information that can and should be tracked in a viable performance measurement system; performance measurement in relation to other evaluation activities; the performance measurement development process; and optimal ways of assessing the accuracy and usefulness of performance measurement systems.

Information acquired through this Request for Information process is provided voluntarily, will not be compensated and will not obligate LSC to pursue any particular course of action or strategy.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 02–21167 Filed 8–19–02; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–099]

National Environmental Policy Act; NASA Ames Development Plan

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Final Programmatic Environmental

Impact Statement (FPEIS) for the NASA Ames Development Plan (NADP).

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), and NASA ''Procedures for Implementing the National Environmental Policy Act (NEPA)'' (14 CFR part 1216 subpart 1216.3), NASA has prepared a FPEIS for the proposed NADP. The purpose of the FPEIS is to assess the environmental consequences associated with development under the proposed NADP, which is intended to bring new research and development (R&D) uses to the NASA Ames Research Center (ARC) in Santa Clara County, California. NASA is planning to develop a world-class, shared-used educational and R&D campus focused on astrobiology, life sciences, space sciences, nanotechnology, biotechnology, information technology and aeronautics. As part of the NADP, NASA officials plan to create partnerships with federal, state and local government agencies, universities, private industry and non-profit organizations in support of NASA's mission to conduct research and develop new technologies.

DATES: NASA will take no final action on the NADP before September 9, 2002, or 30 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's Notice of Availability of the NADP FPEIS, whichever is later.

ADDRESSES: The FPEIS can be reviewed at the following locations:

(a) Mountain View Public Library, Reference Section, 585 Franklin Street, Mountain View, CA (650–903–6887).

(b) Sunnyvale Public Library, Reference Section, 665 West Olive Avenue, Sunnyvale, CA (650–730–7300).

(c) NASA Headquarters, Library, Room lJ20, 300 E Street SW, Washington, DC 20546 (202–358–0167).

(d) Access electronically at *http://researchpark.arc.nasa.gov*.

In addition, the FPEIS may be examined at the following locations through the NASA Freedom of Information Act Offices as follows:

(a) NASA, Dryden Flight Research Center, P.O. Box 273, Edwards, CA 93523 (661–276–2704).

(b) NASA, Glenn Research Center at Lewis Field, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2755).

(c) NASA, Goddard Space Flight Center, Greenbelt Road, Greenbelt, MD 20771 (301–286–0730).

(d) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

(e) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612).

(f) Spaceport U.S.A., Room 2001, John F. Kennedy Space Center, FL 32899. Please call Lisa Fowler at 321–867–2201 in advance.

(g) NASA, Langley Research Center, Hampton, VA 23681 (757–864–2497).

(h) NASA, Marshall Space Flight Center, Huntsville, AL 35812 (256–544–2030).

(i) NASA, Stennis Space Center, MS 39529 (228–688–2164).

FOR FURTHER INFORMATION CONTACT: Sandy Olliges, NASA, Ames Research Center, M.S. 218–1/Building 218, Moffett Field, CA 94035–1000; telephone 650–604–3355; electronic mail (*solliges@mail.arc.nasa.gov*).

SUPPLEMENTARY INFORMATION: In 1991, the Federal Base Closure and Realignment Commission decided to close Moffett Field Naval Air Station. Subsequently, the U.S. Department of Defense transferred stewardship of the property to NASA. NASA took over administration of Moffett Field in 1994. The immediate issues were how to use the newly acquired land in a manner consistent with NASA's mission, and how to pay for the maintenance and operations of such a large site. These matters were originally addressed in the Moffett Field Comprehensive Use Plan (CUP) and its associated Environmental Assessment (EA), which resulted in a Finding of No Significant Impact (FONSI) in 1994. After the transfer of the property, local community leaders formed a Community Advisory Committee (CAC) and recommended uses for the newly acquired land. The uses proposed in the NADP are consistent with the CAC recommendations.

In addition to the activities described in the CUP, NASA now proposes to develop the NASA Research Park (NRP) and other areas by building on the full range of existing high-technology and aviation resources at Moffett Field and creating partnerships with Federal, State, and local governmental agencies, universities, private industry and non-profit organizations in support of NASA's mission to develop new scientific knowledge and technologies. With the help of these collaborative organizations and consistent with its mission, NASA proposes to develop a world-class, shared-use educational and R&D campus focused on the advancement of human knowledge about nanotechnology, information technology, biotechnology, astrobiology, life sciences, space sciences and aeronautics. By integrating public and private R&D efforts at the NRP, NASA would create a hub for technology transfer, stay involved with cutting-edge technology advances, and facilitate the commercial applications of NASA's basic scientific research.

Alternatives for the development at the Center in the FPEIS include:

Alternative 1: The No Action Alternative. Under the No Action (a.k.a. No Project) Alternative, NASA would not propose new development for ARC at this time. However, NASA would implement several projects at ARC that are already approved pursuant to the NASA ARC CUP EA and FONSI, and the California Air National Guard Master Plan EA and FONSI.

Alternative 2: In Alternative 2, NASA proposes to develop approximately 360,000 square meters (3.9 million square feet) of new space in the NRP, Bay View, and Eastside/Airfield areas. Within the NRP area, there would be approximately 190,000 square meters (2 million square feet) of new educational, office, research and development, museum, conference center, housing and retail development. Approximately 52,000 square meters (560,000 square feet) of existing non-historic structures would be demolished, and approximately 46,000 square meters (500,000 square feet) of existing space would be renovated. In this alternative, NASA proposes approximately 121,000 square meters (1.3 million square feet) of new educational and housing development in the Bay View area, and approximately 51,000 square meters (550,000 square feet) of new low density research and development and light industrial space. Hangars 2 and 3 in the Eastside Airfield area would be renovated. Total build out under this alternative would be approximately 845,000 square meters (9.1 million square feet).

Alternative 3: Based on the ideas of Traditional Neighborhood Design, NASA, in Alternative 3, would create a new mixed-use development within the NRP. In this alternative, NASA proposes to: (1) Add approximately 280,000 square meters (3 million square feet) of new educational, office, research and development, museum, conference center, housing and retail development, (2) demolish approximately 52,000 square meters (560,000 square feet) of non-historic structures, and (3) renovate approximately 46,000 square meters (500,000 square feet) of existing space. NASA does not propose any new construction in the Bay View or Eastside/Airfield areas, although

Hangars 2 and 3 in the Eastside/Airfield area would be renovated for low-intensity research and development or light industrial uses. The total build out under Alternative 3 would be approximately 760,000 square meters (8.2 million square feet).

Alternative 4: In Alternative 4, NASA would concentrate more of the new development in the Bay View area than it would in the other alternatives, while creating less dense development in the NRP area. In Alternative 4, NASA proposes to: (1) Add approximately 145,000 square meters (1.6 million square feet) of new educational office, research and development, museum, conference center, housing and retail space in the NRP area, (2) demolish approximately 52,000 square meters (560,000 square feet) of non-historic structures and (3) renovate approximately 46,000 square meters (500,000 square feet) of existing space. In the Bay View area, NASA proposes approximately 251,000 square meters (2.7 million square feet) of new office, research and development, laboratory, educational, and student/faculty housing development. In the Eastside/Airfield area, NASA proposes to (1) create approximately 62,000 square meters (670,000 square feet) of new light industrial, research and development, office and educational facility development, and (2) renovate the historic hangars. The total build out under Alternative 4 would be approximately 940,000 square meters (10.1 million square feet).

Alternative 5: Under Alternative 5, NASA would allow some new construction in each of the four development areas, but would concentrate most of this construction in the NRP area. In this alternative, NASA proposes to: (1) Add approximately 192,000 square meters (2.1 million square feet) of new educational, office, research and development, museum, conference center, housing and retail space in the NRP Area, (2) demolish approximately 52,000 square meters (560,000 square feet) of non-historic structures, and (3) renovate approximately 56,000 square meters (600,000 square feet) of existing space. In the Bay View area, NASA proposes to add approximately 93,000 square meters (1 million square feet) of new development, primarily for housing. In the Eastside/Airfield area, NASA proposes to construct approximately 1,115 square meters (12,000 square feet) of new space in a new control tower to replace the existing control tower that would be demolished in the NRP area. Finally, in the Ames Campus area, NASA proposes to demolish approximately 37,000 square meters (400,000 square feet) of existing buildings to make way for 46,000 square meters (500,000 square feet) of high density office and research and development space. Total build out under Alternative 5 would be approximately 780,000 square meters (8.4 million square feet).

Mitigated Alternative 5: The Preferred Alternative Under Mitigated Alternative 5, development would be the same as in Alternative 5, with several exceptions. In the NRP area, the land area of parcel 1, which is proposed to accommodate the Lab Project proposed under the baseline, would be decreased. The development potential of this parcel would be kept the same through an increase in the parcel's allowed Floor Area Ratio (FAR). The land area of NRP Parcel 6, which is proposed for housing, would be increased, with a corresponding increase in its development potential. As well, a portion of building 19 and all of building 20 would be redesigned for use as dormitory housing. This would be in keeping with the historic use of these buildings, which were originally built as enlisted personnel and officer's housing respectively.

To accommodate additional housing, the land area of Bay View Parcel 1, which is designated for housing would be increased, as would the parcel's allowable FAR. However, the area of other parcels proposed for development was decreased, so the total land area proposed for development in the Bay View would remain the same. In the Bay View area, 1,120 townhomes and apartment units would be provided, as compared to 750 under Alternative 5 without mitigation.

The residential development in the Bay View area would occur in the 100-year floodplain. This site is the only on-site location suitable for the additional housing, which is required to help mitigate the significant environmental impacts on the jobs/housing imbalance and traffic. Fill would be added to approximately 23 acres to bring the finished grade above the 100-year floodplain elevation. No adverse impacts to human health or the environment are expected to result.

NASA has selected Mitigated Alternative Five as the Preferred Alternative. The Preferred Alternative has been identified as the option that best meets NASA's purpose and need, and has the fewest significant environmental impacts. However, even with the proposed mitigation measures, there would be significant impacts to air quality, traffic, and the jobs/housing imbalance.

The FPEIS also includes the General Conformity Determination for Carbon Monoxide, which is provided in Appendix D of the FPEIS. Although more than 100 tons per year of carbon monoxide would be generated by the preferred alternative, no violation of National Ambient Air Quality Standards is expected.

Pursuant to section 7 of the Endangered Species Act, NASA has conducted informal consultation with the U.S. Fish and Wildlife Service, and has prepared a Biological Assessment to describe the effects of the proposed action on the federally listed species at the site. No adverse effect is expected from implementation of the preferred alternative. The Biological Assessment is provided as Appendix E to the FPEIS.

Pursuant to the National Historic Preservation Act (NHPA), NASA has prepared a Historic Resources Protection Plan (HRPP) for the Shenandoah Plaza Historic District in the proposed NRP, and a Programmatic Agreement (PA) with the Advisory Council on Historic Preservation and the California State Historic Preservation Officer, to adopt and implement the HRPP. Under the proposed action, most noncontributing structures in the Historic District would be demolished, along with the non-historic buildings in the NRP that are outside the Historic District. Historic District infill and new construction in the area of potential effect would comply with the NHPA. No adverse effect is expected from implementation of the preferred alternative. The HRPP and PA are in appendix G of the FPEIS.

NASA has prepared a consistency determination for the entire NADP project relative to the Coastal Zone Management Act administered by the Bay Conservation and Development Commission (BCDC). This consistency determination was submitted to BCDC on April 12, 2002, with additional information submitted on May 29 and July 9, 2002. This consistency determination concluded that the proposed NADP would be consistent to the maximum extent practicable with the Bay Plan, McAteer-Petris Act, and the Coastal Zone Management Act. BCDC concurred with NASA's consistency determination on July 18, 2002.

Future projects implemented pursuant to the NADP will be evaluated for NEPA compliance by the NASA ARC Environmental Services Office to determine if the project's environmental impacts were adequately described in the FPEIS. Any applicable mitigation measures will also be identified. If the project is not adequately covered by the

FPEIS, then NASA will determine what level of additional NEPA analysis may be required. In addition to the NEPA review, NASA will review its partners' proposed projects for compliance with the NADP Design Guide, the Transportation Demand Management Program, the Historic Resources Protection Plan, and the Environmental Issues Management Plan, which are described in the FPEIS, as well as with Federal, State, and local environmental, health, and safety laws, regulations, and ordinances; Executive Orders; NASA ARC policies; and other applicable codes and standards.

Dated: August 14, 2002.

Jeffrey E. Sutton,

Assistant Administrator for Management Systems.

[FR Doc. 02–21201 Filed 8–19–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–100]

NASA Advisory Council, Revolutionize Aviation Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aerospace Technology Advisory Committee (ATAC), Revolutionize Aviation Subcommittee (RAS).

DATES: Wednesday, September 18, 2002, 8 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 3H46, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Bernice E. Lynch, Office of Aerospace Technology, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4594.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Revolutionize Aviation Subcommittee (RAS) Overview
- Overview of Aeronautics Programs
- NASA Aeronautics Performance Report
- NASA Aeronautics Strategy & Planning

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: August 14, 2002.

Sylvia K. Kraemer,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–21202 Filed 8–19–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before September 19, 2002, to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for these information collections on June 7, 2002 (67 FR 39442 and 39443). No comments were received. NARA has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Application for attendance at the Institute for the Editing of Historical Documents.

OMB number: 3095–0012.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals, often already working on documentary editing projects, who wish to apply to attend the annual one-week Institute for the Editing of Historical Documents, an intensive seminar in all aspects of modern documentary editing techniques taught by visiting editors and specialists.

Estimated number of respondents: 25.

Estimated time per response: 1.5 hours.

Frequency of response: On occasion, no more than annually (when respondent wishes to apply for attendance at the Institute).

Estimated total annual burden hours: 37.5 hours.

Abstract: The application is used by the NHPRC staff to establish the applicants qualifications and to permit selection of those individuals best qualified to attend the Institute jointly sponsored by the NHPRC, the State Historical Society of Wisconsin, and the University of Wisconsin. Selected applicants forms are forwarded to the resident advisors of the Institute, who use them to determine what areas of instruction would be most useful to the applicants.

2. *Title:* National Historical Publications and Records Commission Grant Program.

OMB number: 3095–0013.

Agency form number: None.

Type of review: Regular.

Affected public: Nonprofit organizations and institutions, state and local government agencies, Federally acknowledged or state-recognized Native American tribes or groups, and individuals who apply for NHPRC grants for support of historical documentary editions, archival preservation and planning projects, and other records projects.

Estimated number of respondents: 134 per year submit applications; approximately 100 grantees among the applicant respondents also submit semiannual narrative performance reports.

Estimated time per response: 54 hours per application; 2 hours per narrative report.

Frequency of response: On occasion for the application; semiannually for the narrative report. Currently, the NHPRC considers grant applications 2 times per year; respondents usually submit no more than one application per year.

Estimated total annual burden hours: 7,636 hours.

Abstract: The application is used by the NHPRC staff, reviewers, and the Commission to determine if the applicant and proposed project are eligible for an NHPRC grant, and whether the proposed project is methodologically sound and suitable for support. The narrative report is used by the NHPRC staff to monitor the performance of grants.

3. *Title:* Applications for Archival Administration and Historical Documentary Editing Fellowships.

OMB number: 3095–0014.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals who wish to apply for an NHPRC fellowship in archival administration or historical documentary editing. Applicants for the archival administration fellowship must have at least two years professional archival work experience; applicants for the editing fellowship must hold a Ph.D. or have completed all requirements for the degree except the dissertation.

Estimated number of respondents: 9.

Estimated time per response: 8 hours.

Frequency of response: Generally one-time.

Estimated total annual burden hours: 72 hours.

Abstract: The application is used by the NHPRC staff to establish the applicants' qualifications and to permit selection by the host institution of those individuals best qualified for the fellowships. One fellowship in archival administration and one fellowship in historical editing are awarded each year.

4. *Title:* Application for host institutions of archival administration and historical editing fellowships.

OMB number: 3095–0015.

Agency form number: None.

Type of review: Regular.

Affected public: Nonprofit institutions or organizations that have active archival or special collections programs, and historical documentary publication projects that have received an NHPRC grant.

Estimated number of respondents: 9.

Estimated time per response: 17 hours.

Frequency of response: Generally, one-time although an institution may apply in subsequent years.

Estimated total annual burden hours: 153 hours.

Abstract: The application is used by the NHPRC staff to select applicants to serve as host institutions for the two fellowships supported by the NHPRC each year.

Dated: August 13, 2002.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 02–21039 Filed 8–19–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CAPITAL PLANNING COMMISSION

Public Comment Period on the Draft National Capital Urban Design and Security Plan

AGENCY: National Capital Planning Commission.

ACTION: Availability of the Draft National Capital Urban Design and Security Plan and opportunity for public comment.

SUMMARY: In response to the proliferation of hastily installed security barriers that are marring the appearance of Washington's Monumental Core, the National Capital Planning Commission has prepared a draft Urban Design and Security Plan to identify permanent, comprehensive security and streetscape improvements to be developed over the next three to five years. The plan proposes solutions for areas throughout the Monumental Core including Pennsylvania Avenue, the Federal Triangle, the National Mall, Independence and Constitution Avenues, the Lincoln and Jefferson Memorials, Downtown, the West End, and the Southwest Federal Center. The Commission is conducting a 60-day public comment period on the draft plan.

DATES: An information session that includes opportunity for public comment will be held on Wednesday, September 4, 2002 from 5:30 p.m. to 7:30 p.m.

ADDRESSES: The meeting will be held at the National Capital Planning Commission office, 401 9th Street, NW., North Lobby, Suite 500, Washington, DC 20576.

SUPPLEMENTARY INFORMATION: The draft plan is available on the Commission's Web site *www.ncpc.gov*. It is also available on CD from the Commission's offices at 401 9th Street, NW., North Lobby, Suite 500, Washington, DC 20576. Printed copies will be available upon request from July 26, 2002. Individuals interested in testifying at the public meetings should call the National Capital Planning Commission, 202–482–7200. Members of the public who wish to testify and have not signed up in advance may sign up at the meeting before the start of the session. Those testifying will be limited to three minutes for individuals and five minutes for organizations, and will generally be scheduled on a first-come basis. Written comments may be submitted before, during or after the public meeting. Comments may be mailed to the attention of Elizabeth Miller at the National Capital Planning Commission. Comments may also be sent by fax: 202–482–7272 or by e-mail: *infor@ncpc.gov*. All comments should be received by the end of the comment period, September 9, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Miller, 202–482–7246.

Dated: August 9, 2002.

Ash J. Jain,

Certifying Officer.

[FR Doc. 02–21066 Filed 8–19–02; 8:45 am]

BILLING CODE 7502–02–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Submission for OMB Review; Comment Request

The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 [Pub. L. 104–13, 44 U.S.C. Chapter 35]. Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Arts' Deputy for Guidelines, Panel, & Council Operations, A.B. Spellman 202/682–5421. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call 202/682–5496 between 10 a.m. and 4 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, 202/395–7316, within 30 days from the date of this publication in the **Federal Register**.

The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of all of its funding application guidelines and grantee reporting requirements. This entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Agency: National Endowment for the Arts.

Title: Blanket Justification for NEA Funding Application Guidelines and Reporting Requirements FY 2004–FY 2007.

OMB Number: 3135–0112.

Frequency: Annually.

Affected Public: Nonprofit organizations, state & local arts agencies, and individuals.

Estimated Number of Respondents: 5,380.

Estimated Time Per Respondent: 21 hours (applications)/8 hours (reports).

Total Burden Hours: 129,152.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): 0.

Description: Guideline instructions and applications elicit relevant information from individuals, nonprofit organizations, and state and local arts agencies that apply for funding from the NEA. This information is necessary for the accurate, fair, and thorough consideration of competing proposals in the review process. According to OMB Circulars A–102 and A–110, recipients of federal funds are required to report on project activities and expenditures. Reporting requirements are necessary to ascertain that grant projects have been completed, and all terms and conditions fulfilled.

ADDRESSES: A.B. Spellman, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 516, Washington, DC 20506–0001, telephone 202/682–5421 (this is not a toll-free number), fax 202/682–5049.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. 02–21123 Filed 8–19–02; 8:45 am]

BILLING CODE 7537–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SES Performance Review Board

AGENCY: The National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: This notice announces the membership of the Performance Review Board of the National Endowment for the Humanities.

FOR FURTHER INFORMATION CONTACT: Timothy G. Connelly, Director of Human Resources, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; telephone (202) 606–8415.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 3393 and 4314(c)(1) through (5) require each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, both an executive resources board and a performance review board for SES. The National Endowment for the Humanities has a combined Board, which is referred to as the Executive Resources and Performance Review Board (ERPRB).

Effective September 1, 2002, the members of the National Endowment for the Humanities SES Performance Review Board selected to serve two-year appointments are Nancy Rogers, Director, Division of Public Programs—Board Chairman, Jeffrey Thomas, Assistant Chairman for Planning and Operations, Brett Bobley, Chief Information Officer, and Edie Manza, Director, Federal/State Partnership. Cherie Harder, Senior Counselor to the Chairman, will serve until replaced.

Bruce Cole,

Chairman.

[FR Doc. 02–21168 Filed 8–19–02; 8:45 am]

BILLING CODE 7536–01–U

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 19, 26, September 2, 9, 16, 23, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 19, 2002

Monday, August 19, 2002

8:30 a.m. Discussion of Security Issues (Closed—Ex. 1)

Wednesday, August 21, 2002

9:30 a.m. Briefing on NRC International Activities (Public Meeting) (Contact: Janice Dunn Lee, 301–415–1780)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

1:55 p.m. Affirmation Session (Public Meeting) (If needed)

2:00 p.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: John Zabko, 301–415–2308)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of August 26, 2002—Tentative

There are no meetings scheduled for the Week of August 26, 2002.

Week of September 2, 2002—Tentative

There are no meetings scheduled for the Week of September 2, 2002.

Week of September 9, 2002—Tentative

There are no meetings scheduled for the Week of September 9, 2002.

Week of September 16, 2002—Tentative

There are no meetings scheduled for the Week of September 16, 2002.

Week of September 23, 2002—Tentative

There are no meetings scheduled for the Week of September 23, 2002.

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: By a vote of 5–0 on August 12 and 13, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Security Issues

(Closed—Ex. 1)'' be held on August 19, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving the Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: August 15, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–21254 Filed 8–16–02; 10:05 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from July 26, 2002 through August 8, 2002. The last biweekly notice was published on August 6, 2002 (67 FR 50947).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By September 19, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

[1] The most recent version of Title 10 of the CODE OF FEDERAL REGULATIONS, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.''

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov.*

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: July 24, 2002.

Description of amendments request: The proposed amendments would revise Technical Specifications (TS) Section 3.1.7, ''Standby Liquid Control (SLC) System,'' to reflect modifications being made to the system as a result of transition to the GE14 fuel design. To support this transition, the required in-vessel boron concentration, supplied by the SLC system, would be increased from 660 ppm natural boron to a concentration equivalent to 720 ppm natural boron. This would be accomplished by use of sodium pentaborate solution enriched with the Boron-10 isotope. As a result, (1) a new Surveillance Requirement (SR) 3.1.7.8 would be added to verify sodium pentaborate enrichment, (2) the minimum sodium pentaborate concentration value would be lowered in TS Figure 3.1.7–1, ''Sodium Pentaborate Solution Volume Versus Concentration Requirements,'' and (3) the temperature versus concentration requirements of TS Figure 3.1.7–2, ''Sodium Pentaborate Solution Temperature Versus Concentration Requirements,'' would be revised. In a related change, SR 3.1.7.3 would also be revised. Currently, the SR verifies temperature of the SLC pump suction piping. The SR would be revised to verify temperature of the suction and discharge piping up to the SLC injection valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendments do not alter the design or operation of the Standby Liquid Control (SLC) system, but rather revise Technical Specification (TS) Section 3.1.7 requirements to ensure acceptable SLC boron solution volume and concentration values to produce a minimum in-vessel boron concentration which is sufficient to bring the reactor to a subcritical condition without taking credit for control rod movement. The existing design of the SLC system is sufficient to handle enriched sodium pentaborate solution, which is chemically and physically similar to the current solution. The SLC system is not considered to be an initiator of any analyzed event. Therefore, the proposed amendments do not increase the probability of a previously evaluated accident.

The current TS Section 3.1.7 requirements ensure acceptable SLC boron solution volume and concentration values to produce a minimum in-vessel natural boron concentration of 660 ppm. The proposed change revises the boron solution requirements of TS Figures 3.1.7–1 and 3.1.7–2, to ensure a minimum in-vessel concentration equivalent to 720 ppm natural boron. A minimum concentration equivalent to 720 ppm natural boron in the reactor is sufficient to bring the reactor, at any time in a fuel cycle, from full power and minimum control rod inventory to a subcritical condition with the reactor in the most reactive, xenon free state without taking credit for control rod movement. This concentration was determined by General Electric using the approved methods described in Revision 14 of General Electric Standard Application for Reactor Fuel (GESTAR II), NEDE 24011–P–A. The analysis assumes Brunswick Steam Electric Plant (BSEP) operation with an equilibrium core of GE14 fuel, operating at 2923 megawatts thermal (MWt) with 24 month operating cycles.

As stated above, the in-vessel boron concentration is being raised from 660 ppm natural to 720 ppm equivalent. This will be accomplished by use of sodium pentaborate solution enriched with the Boron-10 isotope. As a result, a new Surveillance Requirement (SR) 3.1.7.8 is added. This SR verifies sodium pentaborate enrichment is greater than or equal to 47 atom percent Boron-10 prior to addition to the SLC tank, thereby ensuring a minimum concentration equivalent to 720 ppm natural boron in the reactor will be achieved.

Use of sodium pentaborate enriched to 47 atom percent Boron-10 allows the volume versus concentration requirements of TS Figure 3.1.7–1 to be lowered. This, in turn, lowers the solution's saturation temperature. Accordingly, the temperature versus concentration requirements of TS Figure 3.1.7–2 are revised. The existing 5° F margin to the saturation temperature specified in the bases is maintained in the revised TS Figure 3.1.7–2.

The concentration requirements of the SLC system boron solution will ensure that the SLC system continues to comply with the requirements of 10 CFR 50.62(c)(4).

The SLC system is also used to maintain suppression pool pH level above 7 following a loss-of-coolant-accident (LOCA) involving significant fission product releases. This ensures that iodine will be retained in the suppression pool water post-LOCA. The revised sodium pentaborate solution requirements were evaluated using the methodology provided in NUREG–1465, ''Accident Source Terms for Light-Water Nuclear Power Plants, Final Report,'' dated February 1, 1995 and NUREG/CR–5950, ''Iodine Evolution and pH Control,'' dated December 1992. This evaluation demonstrated that the SLC system continues to meet its post-LOCA suppression pool pH control design function.

The change to SR 3.1.7.3 is conservative in nature and is consistent with both the current Bases for SR 3.1.7.3 and plant operating practice. Required verification of the discharge as well as suction piping temperature provides additional assurance of system operability.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendments do not alter the design or operation of the SLC system, but rather revise TS Section 3.1.7 requirements to ensure acceptable SLC boron solution volume and concentration values to produce a minimum in-vessel boron concentration which is sufficient to bring the reactor to a subcritical condition without taking credit for control rod movement. The existing design of the SLC system is sufficient to handle enriched sodium pentaborate solution, which is chemically and physically similar to the current solution. Using the enriched solution does not change any of the key SLC system process parameters (*i.e.,* flow rates, discharge pressure, required net positive suction head, etc.). Correct enrichment is ensured by the addition of a new SR to verify sodium pentaborate enrichment prior to addition to the SLC tank. The existing 5° F margin to the saturation temperature specified in the bases is maintained. The change to SR 3.1.7.3 is conservative in nature and is consistent with both the current Bases for SR 3.1.7.3 and plant operating practice. Required verification of the discharge as well as suction piping temperature provides additional assurance of system operability. Therefore, the proposed amendments cannot create a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the boron solution requirements of TS Figures 3.1.7–1 and 3.1.7–2, to ensure a minimum in-vessel concentration equivalent to 720 ppm natural boron. A minimum concentration equivalent to 720 ppm natural boron in the reactor is sufficient to bring the reactor, at any time in a fuel cycle, from full power and minimum control rod inventory to a subcritical condition with the reactor in the most reactive, xenon free state without taking credit for control rod movement. This concentration was determined by General Electric using the approved methods described in GESTAR II. The existing design of the SLC system is sufficient to handle enriched sodium pentaborate solution, which is chemically and physically similar to the current solution. Correct enrichment is ensured by the addition of a new SR 3.1.7.8 to verify sodium pentaborate enrichment prior to addition to the SLC tank. The existing 5° F margin to the saturation temperature specified in the bases is maintained. The existing SLC system design requires that SLC inject a quantity of boron that includes an additional 25% above that needed for an in-vessel boron concentration of 660 ppm. This additional 25% is injected to compensate for imperfect mixing, leakage, and volume in other small piping connected to the reactor. This margin will be maintained such that an additional 25% above that needed for an in-vessel boron concentration equivalent to 720 ppm natural boron will also be injected. The minimum sodium pentaborate concentration of 8.5 weight percent, proposed by this amendment request, ensures that the SLC system continues to meet its post-LOCA suppression pool pH control design function. The change to SR 3.1.7.3 is conservative in nature and is consistent with both the current Bases for SR 3.1.7.3 and plant operating practice. Required verification of the discharge as well as suction piping temperature provides additional assurance of system operability.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Kahtan Jabbour, Acting.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: July 16, 2002.

Description of amendment request: Energy Northwest is requesting changes

to the technical specifications (TS) to change the specified minimum emergency diesel generator (DG) steady state output voltage from 3740 volts to 3910 volts.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed license amendment is administrative and does not involve any design changes or physical changes to plant equipment. The ability of the DGs to perform their safety functions to mitigate consequences is not affected and will continue to be demonstrated in the same manner. Therefore the proposed amendment will not affect the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment does not involve changes to plant equipment and the DGs will continue to perform to their required parameters in the same manner. Because the performance of the DGs will remain unchanged, this proposed amendment does not present the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment is solely a request to revise the Technical Specifications regarding minimum steady state DG output voltage requirements. This change would not affect any operating parameter or equipment performance. Because this proposed amendment would not affect operation, the margin of safety maintained by Columbia would remain unchanged.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: July 8, 2002.

Description of amendment request: The proposed amendments would change Appendix A, Technical Specifications (TS), of Facility Operating License Nos. NPF–11 and NPF–18. Specifically, the proposed change would add two footnotes to TS Table 3.3.8.1–1, ''Loss of Power Instrumentation,'' Functions 1.e and 2.e, ''Degraded Voltage—Time Delay, LOCA,'' and makes an editorial change to the heading of TS Table 3.3.8.1–1. The Degraded Voltage—Time Delay, LOCA, function is currently required to be OPERABLE during plant configurations when the emergency core cooling system (ECCS) instrumentation that generates the loss-of-coolant accident (LOCA) signal is not required to be OPERABLE. The proposed changes correct this inconsistency by adding two new footnotes to TS Table 3.3.8.1–1 that modify the required OPERABILITY of the Degraded Voltage—Time Delay, LOCA, function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The TS Table 3.3.8.1–1 Function column heading change to add the reference to the Opposite Unit Division 2 is an editorial change. It was always the intent and practice of LaSalle County Station to apply TS requirements from this column to the Opposite Unit Division 2 4.16 kV emergency bus.

The operation of the Degraded Voltage—Time Delay, LOCA, function is not a precursor to any accident previously evaluated. Thus, the proposed changes to modify the OPERABILITY of the Degraded Voltage—Time Delay, LOCA, function to be consistent with the OPERABILITY of the ECCS instrumentation that generate the timer initiating LOCA signal do not have any affect on the probability of an accident previously evaluated.

Successful operation of the required safety functions of the ECCS is dependent upon the availability of adequate power sources for energizing the various components such as pump motors, motor operated valves, and the associated control components. Offsite power is the preferred source of power for the 4.16 kV emergency buses. The Degraded Voltage—Time Delay, LOCA, function does provide assurance that the ECCS will perform as designed by initiating the disconnect of the 4.16 kV emergency buses from the offsite power sources and connected to the onsite DG power sources, if it is determined that insufficient offsite voltage is available. Thus, the radiological consequences of any accident previously evaluated are not increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to modify the OPERABILITY of the Degraded Voltage—Time Delay, LOCA, function to be consistent with the OPERABILITY of the ECCS instrumentation that generate the timer initiating LOCA signal, will not affect the control parameters governing unit operation or the response of plant equipment to transient conditions. The proposed changes do not introduce any new equipment, modes of system operation or failure mechanisms.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The Degraded Voltage Time Delay circuitry is composed of two time delay components. Upon detection of a degraded voltage condition, the Degraded Voltage—Time Delay, No LOCA, function timer is initiated with a TS Allowable Value of ≥ 270.1 seconds and ≤ 329.9 seconds. If a coincident LOCA signal is detected, the Degraded Voltage—Time Delay, No LOCA, function timer is bypassed and the Degraded Voltage—Time Delay, LOCA, function timer is initiated. The Degraded Voltage—Time Delay, LOCA, function timer has a TS Allowable Value of ≥ 9.4 seconds and ≤ 10.9 seconds. The Time Delay Allowable Values are long enough to provide time for the offsite power supply to recover to normal voltages, but short enough to ensure that sufficient power is available to the required equipment. The shorter time delay associated with a coincident LOCA signal is required to ensure that the ECCS injection assumptions of the LOCA analyses are met. The proposed changes do not affect the Time Delay Allowable Values.

The Drywell Pressure—High instrumentation is required to be OPERABLE in MODES 1, 2 and 3. In MODES 4 and 5, the Drywell Pressure—High instrumentation is not required to be OPERABLE since there is insufficient energy in the reactor to pressurize the drywell to the Drywell Pressure—High setpoint.

The Reactor Vessel Water Level—Low Low Low, Level 1 and Reactor Vessel Water Level—Low Low, Level 2 ECCS instrumentation is required to be OPERABLE in MODES 1, 2, 3 and 4. In MODE 5, the ECCS instrumentation is required to be OPERABLE except with the spent fuel storage pool gates removed and the water level ≥ 22 feet over the top of the reactor pressure vessel flange. In this situation, the water level provides sufficient coolant inventory to allow operator action to terminate the inventory loss prior to fuel uncovery in case of an inadvertent draindown.

The Drywell Pressure—High, Reactor Vessel Water Level—Low Low Low, Level 1 and the Reactor Vessel Water Level—Low Low, Level 2 ECCS instrumentation are not

required to be OPERABLE when not in MODES 1, 2, 3, 4, and 5 (i.e., no fuel in the vessel).

The proposed changes will modify the OPERABILITY of the Degraded Voltage—Time Delay, LOCA, function to be consistent with the OPERABILITY of the above described ECCS instrumentation that generate the timer initiating LOCA signal. Thus, the proposed changes are consistent with the ECCS injection assumptions of the LOCA analyses.

The Degraded Voltage—Time Delay, No LOCA, function provides adequate protection to ensure that other required systems powered from the diesel generators (DGs) function as designed in any non-LOCA accident in which a loss of power is assumed when the Degraded Voltage—Time Delay, LOCA, function is not required to be OPERABLE.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Deputy General Counsel, Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: Anthony J. Mendiola.

Florida Power and Light Company, et al. (FPL), Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: July 18, 2002.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) regarding Engineered Safety Feature Actuation System instrumentation. Specifically, they would limit the period of time that inoperable recirculation actuation signal (RAS), containment spray actuation signal (CSAS), and auxiliary feedwater actuation signal (AFAS) input channels could be in the bypassed and/or tripped condition. Generally, the proposed TS employ a 48-hour completion time to restore an inoperable channel, which, in most cases, is more restrictive than the existing TS, is comparable to the value used in the Standard TS for Combustion Engineering plants, and is a reasonable expected repair time based on plant maintenance history.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would operation of the facility in accordance with the proposed amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

No, facility operation under the new Technical Specification (TS) restrictions would not increase the probability of occurrence of any accident previously evaluated. The proposed changes only affect the emergency safety features actuation system (ESFAS) functions of RAS, CSAS, and AFAS; generally limiting the time that any instrument channel may be inoperable in a bypassed or tripped condition. No physical plant changes are proposed in conjunction with these revisions. The proposed changes to RAS and AFAS channel operability greatly reduce the time that actuation systems are vulnerable to spurious, inadvertent actuation. The proposed changes do allow a new unlimited time for trip of one CSAS channel on Unit 1. Unit 2 already contains provision for the indefinite single channel trip of CSAS, and this change will also make the two units similar. Additionally, it is important to note that inadvertent actuation of any of these functions (RAS, CSAS, or AFAS) during plant operation is not an accident initiating event. Therefore, with no physical effects on the plant and no increase in probability that the subject ESFAS functions will initiate an accident, there is no increased probability that any previously evaluated accident will occur. The changes provided in this safety evaluation do not affect the assumptions or results of any accident evaluated in the UFSAR [Updated Final Safety Analysis Report].

Likewise, the consequences of any accident previously evaluated have not been increased. The proposed changes, by limiting the time that ESFAS functions are inoperable, will increase the reliability of the associated ESFAS functions to respond to accidents. In particular, the revision to the RAS TS will limit the time that the RAS will be vulnerable to single failure and will therefore improve the system reliability during an accident. As these proposed changes constitute no physical change to the facility and only serve to increase ESFAS function reliability, FPL concludes that the consequences of previously evaluated accidents are not increased. The ability of the ESFAS to respond to accident conditions as assumed in any accident analysis has not been affected.

2. Would operation of the facility in accordance with the proposed amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

No, the proposed activity does not create the possibility of an accident of a different type than any previously evaluated. The proposed changes only affect the ESFAS functions of RAS, CSAS, and AFAS; generally limiting the time that any instrument channel may be inoperable in a bypassed or tripped condition. No physical plant changes are proposed in conjunction with these revisions. Thereby, the proposed changes do not create any new equipment interfaces, equipment response characteristics, or operating configurations. Without creation of a new interaction of materials, operating configuration, or operating interface, there is no possibility that the proposed changes can introduce a new or different kind of accident.

3. Would operation of the facility in accordance with the proposed amendments involve a significant reduction in a margin of safety?

The margin of safety as defined in the basis for any Technical Specification or in any licensing document has not been reduced. Except for the change in end state specified for the AFAS automatic actuation logic LCO [Limiting Condition for Operation], the TS Bases for the associated ESFAS LCO do not explicitly discuss a related margin of safety. Changing the AFAS automatic actuation logic LCO end state from Mode 5 to Mode 4 is not a reduction in a margin of safety. That proposed change is consistent with the TS applicability for the AFAS and auxiliary feedwater systems as well as the bases for TS LCOs. Additionally, by virtue of the increased ESFAS reliability provided by the proposed amendments, it is evident that the margin of safety will not be reduced in any manner.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Kahtan N. Jabbour, Acting.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: June 24, 2002.

Description of amendment request: The proposed amendment would revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period would be extended from the current limit of ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less* * *'' to ''* * *up to 24 hours or up to the limit of the specified Frequency, whichever is greater* * *.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal**

Register on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated June 24, 2002. The NSHC determination is restated below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC 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 proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. 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

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, 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 [a] Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in [a] margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on [a] margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

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.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Richard J. Laufer.

PPL Susquehanna, LLC, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: July 17, 2002.

Description of amendment request: The proposed amendment would change the Unit 2 Technical Specifications (TSs) by including the Unit 2 Cycle 12 (U2C12) Minimum Critical Power Ratio (MCPR) Safety Limits in Section 2.1.1.2, changing the references listed in Section 5.6.5.b, and changing the design features in Section 4.2.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No: The proposed change to the MCPR Safety Limits does not directly or indirectly affect any plant system, equipment, component, or change the processes used to operate the plant. Further, the U2C12 MCPR Safety Limits are generated using NRC approved methodology and meet the applicable acceptance criteria. Thus, this proposed amendment does not involve a significant increase in the probability of occurrence of an accident previously evaluated.

Prior to the startup of U2C12, licensing analyses are performed (using NRC approved methodology referenced in Technical Specification Section 5.6.5.b) to determine changes in the critical power ratio as a result of anticipated operational occurrences. These results are added to the MCPR Safety Limit values proposed herein to generate the MCPR operating limits in the U2C12 [Core Operating Limits Report] COLR. These limits could be different from those specified for the U2C11 COLR. The COLR operating limits thus assure that the MCPR Safety Limit will not be exceeded during normal operation or anticipated operational occurrences, thus providing the required level of protection for the fuel rod cladding. Postulated accidents are also analyzed prior to the startup of U2C12 and the results shown to be within the NRC approved criteria. The proposed change to the MCPR Safety Limit will have a negligible impact on the results of these accident analyses.

The U2C12 reload fuel bundles will utilize a small amount of depleted uranium (''tails'') in certain fuel rods, in addition to natural and slightly enriched uranium. There is no change to the composition of the fuel pellets containing tails material, (*i.e.,* UO2) except a slight decrease in the amount of [uranium-235] U_{235}. Therefore, the use of depleted uranium (''tails'') in the fuel rods does not affect the mechanical performance of the fuel rods. The impact of the use of tails on core performance is included in the reload licensing analysis.

The changes to the references in Section 5.6.5.b were made to properly reflect the NRC approved methodology used to generate the U2C12 core operating limits. The use of this approved methodology does not increase the probability of occurrence or consequences of an accident previously evaluated.

Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously analyzed?

No: The change to the MCPR Safety Limits and the U2C12 core loading which it supports does not directly or indirectly affect any plant system, equipment, or component (other than the core itself) and therefore does not affect the failure modes of any of these. Thus, the proposed [change does] not create the possibility of a previously unevaluated operator error or a new single failure.

The use of depleted uranium (''tails'') in the fuel rods does not affect the mechanical performance of the fuel rods.

The changes to the references in Section 5.6.5.b were made to properly reflect the NRC approved methodology used to generate the U2C12 core operating limits. The use of this approved methodology does not create the possibility of a new or different kind of accident.

Therefore, this proposed amendment does not involve a possibility of a new or different kind of accident from any accident previously analyzed.

3. Does the proposed change involve a significant reduction in a margin of safety?

No: Since the proposed [change does] not alter any plant system, equipment, component, or the processes used to operate the plant, the proposed change will not jeopardize or degrade the function or operation of any plant system or component governed by Technical Specifications. The proposed MCPR Safety Limits do not involve a significant reduction in the margin of safety as currently defined in the Bases of the applicable Technical Specification sections, because the MCPR Safety Limits calculated for U2C12 preserve the required margin of safety.

The use of depleted uranium (''tails'') in the fuel rods does not affect the mechanical performance of the fuel rods.

The changes to the references in Section 5.6.5.b were made to properly reflect the NRC approved methodology used to generate the U2C12 core operating limits. This approved methodology is used to demonstrate that all applicable criteria are met, thus, demonstrating that there is no reduction in the margin of safety.

Therefore, these changes do not involve a significant reduction in [the] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Section Chief: Richard J. Laufer.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: July 18, 2002.

Description of amendment request: The licensee proposes to change Salem Technical Specifications (TSs) requirements associated with its containment spray nozzles. The frequency of TS Surveillance Requirement (SR) 4.6.2.1.d for verifying that the containment spray nozzles are unobstructed would be changed from a fixed 10-year frequency to after activities that could result in nozzle blockage. PSEG proposes to either evaluate the work performed to determine the impact to the containment spray system, or perform an air or smoke flow test.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the testing requirements for the containment spray nozzles to only require verification that each spray nozzle is unobstructed following activities that could result in nozzle blockage. The proposed change does not have a detrimental impact on the integrity of any plant structure, system, or component that initiates an analyzed event. No active or passive failure mechanisms that could lead to an accident are affected. The proposed change will not alter the operation of, or otherwise increase the failure probability of any plant equipment that initiates an analyzed accident. The containment spray system is not an accident initiator but is used for mitigation of design basis accidents. As a result, the probability of any accident previously evaluated, is not significantly increased.

The consequences of a previously evaluated accident are not significantly increased. The proposed change revises the current Surveillance Frequency from 10 years to following activities that could result in spray nozzle blockage. Since activities that could introduce foreign material into the system (such as inadvertent actuation of the containment spray system or loss of foreign material control) are the most likely cause for obstruction, testing or inspection following such activities would verify that the nozzle(s) are unobstructed, and the system is capable of performing its safety function. No other evolutions require the system boundary to be breached, so introduction of debris during times when maintenance activities are not in progress are precluded. Introduction of foreign materials into the system from the exterior is highly unlikely due to the location of the spray headers, the passive nature of the nozzles, and the fact that the stainless steel containment spray headers are maintained dry which does not lend itself to active degradation mechanisms such as corrosion. The proposed testing requirements are considered sufficient to provide a high degree of confidence that containment spray will function when required.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the test frequency for the containment spray system nozzles does not involve the use or installation of new equipment. Installed equipment is not operated in a new or different manner. No new or different system interactions are created, and no new processes are introduced. The current foreign material exclusion practices have been reviewed and judged sufficient to provide high confidence that debris will not be introduced during times when the system boundary is breached.

Therefore, this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The revision to the containment spray nozzle testing frequency does not introduce any new setpoints at which protective or mitigative actions are initiated. No current setpoints are altered by this change. The design and functioning of the containment spray system is unchanged. Since the system is not susceptible to corrosion induced obstruction nor is the introduction of foreign material from the exterior likely, the proposed testing frequency is sufficient to provide high confidence that the containment spray system will be available to provide the flow necessary to mitigate the consequences of a design basis accident. Therefore, the capability of the system will remain unchanged. As a result, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: Jacob I. Zimmerman, Acting.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: July 29, 2002.

Description of amendment request: The proposed change to the Technical Specifications (TSs) would revise the requirements for containment closure associated with the equipment hatch and personnel airlocks during Core Alterations and movement of irradiated fuel within the containment. This proposed change would allow the equipment hatch and the personnel airlocks to remain open during fuel movement in the containment provided

administrative controls are developed and implemented, ensuring the closure of the equipment hatch and personnel airlock following a fuel handling accident within the containment building. In addition, the associated TS Bases are revised.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

An alternate source term calculation has been performed for Salem Nuclear Station that demonstrates that offsite and control room dose consequences of a postulated fuel handling accident remain within the limits provided sufficient decay has occurred prior to the movement of irradiated fuel without taking credit for certain mitigation features such as ventilation filter systems and containment closure. Fuel movement is allowed provided that irradiated fuel has undergone the required decay time.

The proposed amendment would allow movement of sufficiently decayed irradiated fuel within the containment building with the equipment hatch and personnel air locks open provided that administrative controls are implemented to promptly (within 1 hour) close the containment penetrations.

Either the Containment Purge system or the Auxiliary Building Ventilation System with suction from the containment atmosphere, with associated radiation monitoring will be available whenever movement of irradiated fuel is in progress in the containment building and the equipment hatch is open. If for any reason, this ventilation requirement can not be met, movement of fuel assemblies within the containment building shall be discontinued until the flow path(s) can be reestablished or close the equipment hatch and personnel airlocks. The amendment also would allow movement of irradiated fuel assemblies within the Fuel Handling Building with the Fuel Handling Area Ventilation System (FHAVS) in operation but no credit taken for filtration.

This amendment does not alter the methodology of the FHA [Fuel-Handling Accident] or equipment used directly in fuel handling operations. Neither ventilation filter systems, the CPES [Containment Purge Exhaust System] nor the FHAVS, is used to actually handle fuel. Therefore neither of these systems is an ''accident initiator''. Similarly, neither the equipment hatch, the personnel air locks, nor any other containment penetration, nor any component thereof is an accident initiator.

In the postulated Fuel Handling Accident, the revised dose calculations, performed using 10 CFR 50.67 and Regulatory Guide 1.183, Alternative Source Term, do not take credit for automatic containment purge isolation thus allowing for continuous monitoring of containment activity until containment closure is achieved. If required, containment purge isolation can be initiated manually from the control room.

Actual fuel handling operations are not affected by the proposed changes. Therefore, the probability of a Fuel Handling Accident is not affected with the proposed amendment. No other accident initiator is affected by the proposed changes.

The FHA in the Fuel Handling Building has been analyzed without credit for filtration by the FHAVS. The analyses of these design basis events were conducted with the Alternative Source Term Methodology in accordance with 10 CFR 50.67 and Regulatory Guide 1.183. These analyses show that the resultant radiation doses are within the limits specified in these documents.

The TEDE [Total Effective Dose Equivalent] radiation doses from the analyses supporting this LCR [License Change Request] have been compared to equivalent TEDE radiation doses estimated with the guidelines of R.G. [Regulatory Guide] 1.183. The new values are shown to be within the regulatory guidelines.

The revision to the definition of Core Alterations simply reflects the definition in the Standard Technical Specifications, NUREG 1431 for Westinghouse Plants and is supported by the bounding effects of the Fuel Handling Accident analysis.

The deletion of Core Alterations from the APPLICABILITY section of the affected LCO's [Limiting Conditions for Operation] is based on the fact that, during Core Alterations only, the FHA results in cladding damage and potential radiological release. Consequently, the deletion of Core Alterations is consistent with industry approved practice and guidance documents (ex: TSTF [Technical Specification Task Force]-51, revision 2).

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve addition or modification to any plant system, structure, or component. The proposed amendment would permit the equipment hatch and personnel air locks to be open during movement of irradiated fuel. The proposed amendment does not involve any change in the operation of these containment penetrations. Having these penetrations open does not create the possibility of a new accident.

The proposed amendment also would remove the requirements for operability of the FHAVS Filtration System during movement of sufficiently decayed irradiated fuel. It does not alter the operation of these systems. Therefore, the system is not an accident initiator. Modification of the requirements of operability for the system from the plant Technical Specifications does not create the possibility of a new accident.

The revision to the definition of Core Alterations simply reflects the industry position supported by the definition in the Standard Technical Specifications, NUREG 1431 for Westinghouse Plants and is supported by the bounding effects of the Fuel Handling Accident analysis.

The deletion of Core Alterations from the APPLICABILITY section of the affected LCO's is based on the fact that, during Core Alterations only, the FHA results in cladding damage and potential radiological release. Consequently, the deletion of Core Alterations is consistent with industry approved practice and guidance documents (ex: TSTF–51, revision 2).

The proposed amendment does not create the possibility of a new or different kind of accident than any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The assumptions and input used in the analysis are conservative as noted below. The design basis Fuel Handling Accidents have been defined to identify conservative conditions. The source term and radioactivity releases have been calculated pursuant to Regulatory Guide 1.183 and with conservative assumptions concerning prior reactor operation. The control room atmospheric dispersion factors have been calculated with conservative assumptions associated with the release. The conservative assumptions and input noted above ensure that the radiation doses cited in this License Change Request are the upper bound to radiological consequences of a Fuel Handling Accident either in Containment or the Fuel Handling Building. The analyses show that there is a significant margin between the TEDE radiation doses calculated for the postulated Fuel Handling Accident using the Alternative Source Term and the acceptance limits of 10 CFR 50.67 and Regulatory Guide 1.183.

The revision to the definition of Core Alterations simply reflects the industry position supported by the definition in the Standard Technical Specifications, NUREG 1431 for Westinghouse Plants and is supported by the bounding effects of the Fuel Handling Accident analysis.

The deletion of Core Alterations from the APPLICABILITY section of the affected LCO's is based on the fact that, during Core Alterations only the FHA results in cladding damage and potential radiological release. Consequently, the deletion of Core Alterations is consistent with industry approved practice and guidance documents (ex: TSTF–51, revision 2).

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: Jacob Zimmerman, Acting.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: March 20, 2002.

Description of amendment request: This proposed change revises the iodine dose conversion factors used in the determination of the dose equivalent I–131 reactor coolant specific activity and in the calculation of the offsite radiological consequences for those Final Safety Analysis Report (FSAR) Chapter 15 accidents that include iodine spiking effects.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

This proposed change revises the iodine dose conversion factors used in the determination of the dose equivalent I–131 reactor coolant specific activity and in the calculation of the offsite radiological consequences for those FSAR Chapter 15 accidents that include iodine spiking effects. The iodine dose conversion factors are changed from the values in TID [Technical Information Document] 14844 to the values in ICRP [International Commission on Radiological Protection] 30, consistent with NUREG–1431. The accidents affected by this change are the steam generator tube rupture, main steam line break and CVCS [Chemical and Volume Control System] line rupture. The proposed change also revises certain input assumptions (letdown demineralize iodine removal efficiency, primary coolant leakage and uncertainty in letdown flow) used in determining the accident initiated (concurrent) iodine spiking source terms input to the offsite radiological consequences calculations. The change in dose conversion factors and the input assumptions does not affect any normal operation or accident scenarios. There are no changes to any plant procedures or equipment that would relate to the probability of an accident. The change in the iodine spiking input assumptions identified in NSAL [Nuclear Safety Advisory Letter]-00–04 results in an increase in the calculated offsite dose consequences for the steam generator tube rupture, main steam line break and CVCS line rupture. Use of the ICRP 30 iodine dose conversion factors offsets this increase such that the resulting calculated offsite dose consequences are less severe than those previously presented in the FSAR for the steam generator tube rupture, main steam line break and CVCS line rupture. * * *

Thyroid doses for the other accidents described in the FSAR will continue to be reported using the conservative TID 14844 iodine dose conversion factors until a future update is required.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to Technical Specification [TS] 1.10, Definitions, Dose Equivalent I–131 and the use of the iodine spiking input assumptions listed in NSAL–00–04 [do] not introduce any new accident initiator mechanisms. The dose conversion factors are used in determining the reactor coolant dose equivalent I–131 specific activity and in the calculation of offsite dose consequences for certain design basis accidents which include the effects of iodine spiking as revised based on the iodine spiking input changes (letdown demineralizer iodine removal efficiency, primary coolant leakage and uncertainty in letdown flow) provided in NSAL–00–04. No existing accident scenarios are affected and no new scenarios are created. The proposed change does not introduce alterations to system operations, changes to equipment operability or technical specification operability requirements, nor to Engineered Safety Features Actuation System instrumentation or setpoints. The proposed change does not revise any of the actual equipment or instrumentation in the plant nor does it change the actual alarm setpoints or information available to the operators to monitor Technical Specification commitments. It does not introduce any new or different failure mechanisms or limiting single failures. A new or different kind of accident is thus not created.

3. Does this change involve a significant reduction in margin of safety?

The proposed change to Technical Specification 1.10, Definitions, Dose Equivalent I–131 preserves the conclusions of plant safety analyses presented in the FSAR. This proposed change revises the iodine dose conversion factors used in the calculation of the potential offsite radiological consequences following those Chapter 15 accidents that include iodine spiking effects as revised based on the iodine spiking input changes provided in NSAL–00–04. The dose conversion factors are changed from the values in TID–14844 to the values in ICRP 30, consistent with the criteria in NUREG–1431. This activity relates to TS section B3/4.4.8 and TS section 1.10 Dose Equivalent I–131. TS section B3/4.4.8 states that the limitation on the specific activity of the primary coolant ensures that the resulting 2 hour doses at the site boundary will not exceed an appropriately small fraction of Part 100 limits following a steam generator tube rupture accident. TS Section 1.10 defines the acceptable values for the iodine dose conversion factors. The change in the accident initiated iodine spiking calculation input parameters identified in NSAL–00–04 results in an increase in the calculated offsite dose consequences for the steam generator tube rupture, main steam line break and CVCS line rupture. Use of the ICRP 30 iodine dose conversion factors offsets this increase such that the resulting calculated offsite dose consequences are less severe than those previously presented in the FSAR. Therefore, the margin of safety is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: John A. Nakoski.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348, Joseph M. Farley Nuclear Plant, Unit 1, Houston County, Alabama

Date of amendment request: March 4, 2002, as supplemented by letter dated July 11, 2002.

Description of amendment request: The proposed amendment would revise Technical specifications (TS) 5.5.9.3.a, ''Steam Generator Tube Surveillance Program, Inspection Frequencies.'' Specifically, the proposed changes would revise the Farley Nuclear Plant, Unit 1 TS to allow a 40 month inspection interval after its first (post-replacement) inservice inspection, rather than after two consecutive inspections resulting in C–1 classification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed one-time change revises the steam generator (SG) inspection interval requirements in Technical Specification (TS) 5.5.9.3, ''Steam Generator (SG) Tube Surveillance Program, Inspection Frequencies,'' for the Farley Nuclear Plant, Unit 1, Spring 2003 refueling outage, to allow a 40 month inspection frequency after one inspection, rather than after two consecutive inspections with results that are within the C–1 category. C–1 category is defined as ''less than 5% of the total tubes inspected are degraded tubes and none of the inspected tubes are defective.''

The proposed one-time extension of the Unit 1 SG tube inservice inspection interval does not involve changing any structure, system, or component, or affect reactor operations. It is not an initiator of an accident and does not change any existing safety analysis previously analyzed in the Farley Nuclear Plants' Final Safety Analysis Report

(FSAR). As such, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

Since the proposed change does not alter the plant design, there is no direct increase in SG leakage. Industry experience indicates that the probability of increased SG tube degradation would not go undetected.

Additionally, steps described below will further minimize the risk associated with this extension. For example, the scope of inspections performed during the last Farley Nuclear Plant, Unit 1, refueling outage (*i.e.,* the first refueling outage following SG replacement) exceeded the TS requirements for the first two refueling outages after SG replacement. That is, more tubes were inspected than were required by TS. Currently, Farley Nuclear Plant, Unit 1, does not have an SG damage mechanism, and will meet the current industry examination guidelines without performing SG inspections during the next refueling outage. Additionally, as part of our SG Program, both a Condition Monitoring Assessment and an Operational Assessment are performed after each inspection and compared to the Nuclear Energy Institute (NEI) 97–06, ''Steam Generator Program Guidelines,'' performance criteria. The results of the Condition Monitoring Assessment demonstrated that all performance criteria were met during the Farley Nuclear Plant, Unit 1, Fall 2001 refueling outage, and the results of the Operational Assessment show that all performance criteria will be met over the proposed operating period. Considering these actions, along with the improved SG design and reliability of Westinghouse replacement SGs, extending the SG tube inspection frequency does not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change revises the SG inspection frequency requirements in TS 5.5.9.3.a, ''Steam Generator (SG) Tube Surveillance Program, Inspection Frequencies,'' for the Farley Nuclear Plant, Unit 1, Spring 2003 refueling outage, to allow a 40 month inspection interval after one inspection, rather than after two consecutive inspections, with inspection results within the C–1 category.

The proposed change will not alter any plant design basis or postulated accident resulting from potential SG tube degradation. The scope of inspections performed during the last Farley Nuclear Plant, Unit 1, refueling outage (*i.e.,* the first refueling outage following SG replacement) significantly exceeded the TS requirements for the scope of the first two refueling outages after SG replacement.

Primary-to-secondary leakage that may be experienced during all plant conditions is expected to remain within current accident analysis assumptions. The proposed change does not affect the design of the SGs, the method of SG operation, or reactor coolant chemistry controls. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. The proposed change involves a one-time extension to the SG tube inservice inspection frequency, and, therefore, will not give rise to new failure modes. In addition, the proposed change does not impact any other plant systems or components.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The SG tubes are an integral part of the Reactor Coolant System (RCS) pressure boundary that are relied upon to maintain the RCS pressure and inventory. The SG tubes isolate the radioactive fission products in the reactor coolant from the secondary system. The safety function of the SGs is maintained by ensuring the integrity of the SG tubes. In addition, the SG tubes comprise the heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system.

SG tube integrity is a function of the design, environment, and current physical condition. Extending the SG tube inservice inspection frequency by one operating cycle will not alter the function or design of the SGs. SG inspections conducted during the first refueling outage following SG replacement demonstrated that the SGs do not have an active damage mechanism, and the scope of those inspections significantly exceeded those required by the TS. These inspection results were comparable to similar inspection results for second generation alloy 690 models of replacement SGs installed at other plants, and subsequent inspections at those plants yielded results that support this extension request. The improved design of the replacement SGs also provides reasonable assurance that significant tube degradation is not likely to occur over the proposed operating period.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Section Chief: John A. Nakoski.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 2002.

Description of amendment request: The amendment would revise Surveillance Requirements 3.3.1.2 and 3.3.1.3 of Technical Specification 3.3.1, ''Reactor Trip System (RTS) Instrumentation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the previously performed accident analyses since there are no hardware changes. The RTS instrumentation will be unaffected. Protection systems will continue to function in a manner consistent with the plant design basis. All design, material, and construction standards that were applicable prior to the request are maintained.

The probability and consequences of accidents previously evaluated in the USAR [Updated Safety Analysis Report] are not adversely affected because the change to the NIS [Nuclear Instrumentation System] power range channel daily surveillance assures the conservative response of the channel even at part-power levels.

The proposed changes modify the NIS power range channel daily surveillance requirement to assure the NIS power range functions are tested in a manner consistent with the safety analysis and licensing basis.

The proposed changes will not affect the probability of any event initiators. There will be no degradation in the performance of, or an increase in the number of challenges imposed on, safety-related equipment assumed to function during an accident situation. There will be no change to the normal plant operating parameters or accident mitigation performance.

The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the USAR.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating parameters. No performance requirements or response time limits will be affected; however, the proposed TS Bases changes impose explicit NIS power range high trip setpoint adjustment requirements prior to adjusting indicated power in a decreasing power direction. These requirements are consistent

with assumptions made in the safety analysis and licensing basis.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

This amendment does not alter the design or performance of the 7300 Process Protection System, Nuclear Instrumentation System, or Solid State Protection System used in the plant protection systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes require a revision to the criteria for implementation of NIS power range channel adjustments based on secondary power calorimetric calculations; however, the changes do not eliminate any RTS surveillances or alter the frequency of surveillances required by the Technical Specifications. The revision to the criteria for implementation of the daily surveillance will have a conservative effect on the performance of the NIS power range channels, particularly at part-power conditions. The nominal trip setpoints specified in the Technical Specification Bases and the safety analysis limits assumed in the transient and accident analyses are unchanged. None of the acceptance criteria for any accident analysis is changed.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the output power limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor (FΔH), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. The radiological dose consequence acceptance criteria listed in the Standard Review Plan will continue to be met.

The imposition of appropriate surveillance testing requirement will not reduce any margin of safety since the changes will assure that safety analysis assumptions on equipment operability are verified on a periodic frequency.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 2002.

Description of amendment request: The amendment would revise Chapter 5.0, ''Administrative Controls,'' of the technical specifications (TSs) to allow the use of generic personnel titles in the TSs in place of plant-specific personnel titles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect accident initiators or assumptions. The radiological consequences of an accident previously evaluated remain unchanged. These changes involve administrative changes concerning the use of personnel titles and do not affect responsibilities or qualifications of plant personnel.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature. As such, there are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating parameters. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effects or challenges imposed on any safety-related system as a result of this amendment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any [accident] previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. The use of generic personnel titles will not reduce any margin of safety. (These changes involve administrative changes concerning the use of personnel titles and do not affect responsibilities or qualifications of plant personnel.)

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

South Carolina Electric & Gas, Docket No. 50–395, Virgil C. Summer Nuclear Station, Fairfield County, South Carolina

Date of amendment request: July 24, 2001, as supplemented April 4, 2002, May 7, 2002, June 17, 2002, July 2, 2002, July 15, 2002, and July 25, 2002.

Brief description of amendment request: This amendment would increase the spent fuel pool storage capacity by replacing all 11 existing rack modules with 12 new high density storage racks. The rerack will increase the storage capacity from 1,276 storage cells to 1,712 storage cells. The degrading Boraflex neutron-absorbing material in the existing racks will be replaced by Boral material that will be used in the new racks.

*Date of publication of individual notice in **Federal Register:*** June 25, 2002 (67 FR 42810).

Expiration date of individual notice: July 25, 2002.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following

amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397-4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: December 13, 2001, as supplemented by letter dated May 1, 2002.

Brief description of amendments: The amendments add the following to the Technical Specifications: (1) The phrase, ''or if open, capable of being closed,'' to the Limiting Condition for Operation 3.9.3 for the equipment hatch, during core alterations or movement of irradiated fuel assemblies inside containment, and (2) the requirement to verify the capability to close the equipment hatch in a new Surveillance Requirement 3.9.3.3. The amendments allow the equipment hatch to be open in refueling outages during the conditions stated above.

Date of issuance: July 25, 2002.

Effective date: July 25, 2002, and shall be implemented within 90 days of the date of issuance, including the incorporation of the changes to the Technical Specification Bases as described in the licensee's letters dated December 13, 2001, and May 1, 2002.

Amendment Nos.: Unit 1–143, Unit 2–143, Unit 3–143.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2919). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 25, 2002.

No significant hazards consideration comments received: No.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: January 31, 2002.

Brief description of amendments: These amendments correct administrative errors in Section 5.6.5, ''Core Operating Limits Report (COLR),'' of the Technical Specifications and Section 2.0, ''Environmental Protection Issues,'' of the Environmental Protection Program.

Date of issuance: August 6, 2002.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment Nos.: 254/231.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 28, 2002 (67 FR 36927). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 6, 2002.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: August 28, 2001.

Brief description of amendment: The amendment revised Technical Specification (TS) 3/4.5.1, ''Safety Injection Tanks (SITs)'' to delete surveillance requirement (SR) 4.5.1.f. This SR provided verification of the automatic opening features of the SIT outlet isolation valves.

Date of issuance: August 7, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 268.

Facility Operating License No. DPR–65: This amendment revised the TSs.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55010). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 2002.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: September 26, 2001.

Brief description of amendment: The amendment modifies the Millstone Nuclear Power Station, Unit No. 3 (MP3) Technical Specifications (TSs) to relocate MP3 TSs related to the control rod position indication system requirements for shutdown to the licensee-controlled Technical Requirements Manual (TRM). The Index and Bases pages of the affected TSs will also be modified to address the proposed changes.

Date of issuance: July 30, 2002.

Effective date: As of the date of issuance, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 207.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57120). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: April 16, 2002.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period before entering a Limiting Condition for Operation following a missed surveillance. The delay period is extended from the current limit of '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement is added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

Date of issuance: August 1, 2002.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 201 & 194.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 14, 2002 (67 FR 34482). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 1, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: April 16, 2002.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period before entering a Limiting Condition for Operation following a missed surveillance. The delay period is extended from the current limit of '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement is added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

Date of issuance: July 30, 2002.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 205/186.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 14, 2002 (67 FR 34483). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: April 16, 2002.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period is extended from the current limit of '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement is added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

Date of Issuance: July 30, 2002.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 327, 327, 328.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 14, 2002 (67 FR 34483). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: June 13, 2002.

Brief description of amendment: The amendment revised Technical Specifications Section 4.13.A, ''Inspection Requirements,'' to allow the use of the optimum eddy current probe size when performing steam generator tube inspections. The amendment also corrects grammatical and typographical errors.

Date of issuance: July 29, 2002.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 230.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 25, 2002 (67 FR 42806). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: January 8, 2002.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.1.B, ''Heatup and Cooldown,'' to delete the requirements governing the reactor vessel surveillance program, including the reactor vessel specimen withdrawal schedule. In addition, the changes corrected errors in TS 4.2, ''Inservice Inspection and Testing;'' TS 5.2.C, ''Design Features—Containment;'' and TS 6.4, ''Administrative Controls—Training.'' TS Sections 6.1, ''Responsibility'' and 6.2, ''Organization'' were changed to reflect the organizational changes resulting from the transfer of the operating license to Entergy Nuclear Operations, Inc. on September 6, 2001.

Date of issuance: July 30, 2002.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 231.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 5, 2002 (67 FR 10011). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York County, Pennsylvania

Date of application for amendments: March 19, 2002.

Brief description of amendments: These amendments allow plant operation to continue if the temperature of the normal heat sink (NHS) exceeds the Technical Specification (TS) limit of 90 °F provided that the NHS temperature averaged over the previous

24-hour period is verified at least once per hour to be less than or equal to 90 °F, and the NHS temperature does not exceed a maximum value of 92 °F. The format for this change had been previously approved by the Nuclear Regulatory Commission for the Standard TSs as per TS Task Force (TSTF) change TSTF–330, Revision 3, ''Allowed Outage Time—Ultimate Heat Sink'', on October 13, 2000. In addition, an administrative change removes references to a temporary TS change which expired on May 31, 2000.

Date of issuance: July 29, 2002.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendments Nos.: 244/248.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 14, 2002 (67 FR 34486). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 29, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254, Quad Cities Nuclear Power Station, Unit 1, Rock Island County, Illinois

Date of application for amendment: April 8, 2002, as supplemented June 18 and July 3, 2002.

Brief description of amendment: The amendment revises the safety limit minimum critical power ratio for two-loop and single-loop operation.

Date of issuance: July 29, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 207.

Facility Operating License No. DPR–29: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 14, 2002 (67 FR 34487). The supplements dated June 18 and July 3, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 2002.

No significant hazards consideration comments received: No.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: August 16, 2001, as supplemented by letter dated November 19, 2001.

Brief description of amendment: The amendment revises the license to incorporate a new License Condition 2.B.(9). The license condition terminates license jurisdiction for a portion of the Maine Yankee Atomic Power Station site (referred to as the Non-Impacted Backlands (west of Bailey Cove and west of Young's Brook and north of Old Ferry Road)), thereby releasing these lands from Facility Operating License No. DPR–36.

Date of issuance: July 30, 2002.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 167.

Facility Operating License No. DPR–36: The amendment revised the license.

Date of initial notice in ***Federal Register:*** March 19, 2002 (67 FR 12604). The November 19, 2001, supplemental letter provided additional information that did not change the scope of the original **Federal Register** notice or the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: November 26, 2001, as supplemented on May 20, 2002.

Brief description of amendment: The amendment deleted Section 3/4.2.6, ''Inservice Inspection and Testing,'' revised Section 4.2.7, ''Reactor Coolant System Isolation Valves,'' added a new Section 6.17, ''Inservice Testing Program,'' and deleted several reporting requirements in Section 6.9.3, ''Special Reports.''

Date of issuance: August 5, 2002.

Effective date: August 5, 2002.

Amendment No.: 173.

Facility Operating License No. DPR–63: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 26, 2001 (66 FR 66468). The May 20, 2002, supplemental letter provided clarifying information that was within the scope of the amendment request and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 2002.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: June 8, 2001, as supplemented by letters dated February 4, April 8, May 7, June 6, and June 28, 2002.

Brief description of amendments: These amendments revised TS 3.3.5.1, ''Emergency Core Cooling System Instrumentation,'' by deleting Function 3e, thus preventing the automatic swap of the suction source for the high pressure coolant injection pump from the condensate storage tank to the suppression pool on high suppression pool level.

Date of issuance: August 5, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days of their associated plant modifications, and no later than December 31, 2002.

Amendment Nos.: 204/178.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 3, 2001 (66 FR 50471). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 5, 2002.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket No. 50–498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 28, 2002, as supplemented by letters dated June 20 and July 3, and 30, 2002. The supplemental information provided clarification that did not change the scope or the initial no significant hazards consideration determination.

Brief description of amendment: The amendment revises Technical Specification (TS) 4.4.5.3a, ''Steam Generator Surveillance Requirements.'' Specifically, the changes would revise the South Texas Project Unit 1 TS to a 40-month inspection interval after its first (post-replacement) inservice inspection rather than two consecutive inspection resulting in C–1 classification.

Date of issuance: July 31, 2002.

Effective date: July 31, 2002.

Amendment No.: 140.

Facility Operating License No. NPF–76: The amendment revises the Technical Specification.

Date of initial notice in ***Federal Register:*** March 19, 2002 (67 FR 12607). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 2002.

No significant hazards consideration comments received: No.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: October 5, 2001, as supplemented on November 7 and 8, 2001, and January 23 and April 30, 2002.

Brief description of amendment: The amendment revises the license and technical specifications to reflect changes related to the transfer of the license for the Vermont Yankee Nuclear Power Station, previously held by Vermont Yankee Nuclear Power Corporation, to Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.

Date of Issuance: July 31, 2002.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 208.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** December 7, 2001 (66 FR 63566). The letters dated January 23 and April 30, 2002, provided clarifying information and did not expand the application beyond the scope of the notice or affect the applicability of the Commission's generic no significant hazards consideration determination pursuant to 10 CFR 2.1315.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 31, 2002.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 21, 2002.

Brief description of amendment: The amendment revises several of the Required Actions in the technical specifications that require suspension of operations involving positive reactivity additions or suspension of operations involving reactor coolant system (RCS) boron concentration reductions. In addition, the proposed amendment revises several Limiting Condition for Operation (LCO) Notes that preclude reductions in RCS boron concentration. This amendment revises these Required Actions and LCO Notes to allow small, controlled, safe insertions of positive reactivity, but limits the introduction of positive reactivity such that compliance with the required shutdown margin or refueling boron concentration limits will still be satisfied. This amendment is based on an NRC-approved traveler, Technical Specification Task Force (TSTF)–286, Revision 2.

Date of issuance: July 29, 2002.

Effective date: July 29, 2002, and shall be implemented within 60 days of the date of issuance.

Amendment No.: 145.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 16, 2002 (67 FR 18650). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated: July 29, 2002.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: August 7, 2001, as supplemented by letter dated February 20, 2002.

Brief description of amendment: The amendment revises Limiting Condition for Operation 3.9.4 to allow the equipment hatch to be open during core alterations or movement of irradiated fuel assemblies inside containment, and adds the requirement to verify the capability to install the equipment hatch in a new Surveillance Requirement 3.9.4.2. The existing SR 3.9.4.2 would be renumbered SR 3.9.4.3, but would otherwise not be changed.

Date of issuance: July 30, 2002.

Effective date: July 30, 2002, and shall be implemented within 6 months of the date of issuance, including the incorporation of changes to the Technical Specification Bases as described in licensee's application dated August 7, 2001, and supplemental letter dated February 20, 2002.

Amendment No.: 146.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 2001 (66 FR 46482). The supplemental letter dated February 20, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 2002.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendment to Facility Operating License and Final No Significant Hazards Consideration Determination

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

Entergy Nuclear Indian Point 2, LLC, et al., Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: July 13, 2001, as supplemented November 30, 2001, March 13, April 3, May 30, and June 13, 2002.

Brief description of amendment: The amendment made a one-time only change to the Technical Specification Surveillance Requirement 4.4.A.3 to revise the frequency for the containment integrated leak rate test (ILRT, Type A test) from at least once per 10 years to once per 15 years. This change applies only to the interval following the last Type A test that was performed satisfactorily in June 1991 at IP2.

Date of issuance: August 5, 2002.

Amendment No.: 232.

Effective date: As of date of issuance and shall be implemented within 60 days.

Facility Operating License No. DPR–26: Amendment revise the technical specifications.

Date of individual notice in ***Federal Register:*** August 22, 2001 (66 FR 44165). The November 30, 2001, March 13, April 3, May 30, and June 13, 2002, letters provided clarifying information that did not expand the application beyond the scope of the initial notice or change the initial proposed no significant hazards consideration determination.

Dated at Rockville, Maryland, this 9th day of August 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–20843 Filed 8–19–02; 8:45 am]

BILLING CODE 7590–01–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its ninth and final regional meeting, the Commission's eleventh public meeting, to hear and discuss issues of concern to the Great Lakes region.

DATES: Public meetings will be held Tuesday, September 24, 2002 from 8:30 a.m. to 6 p.m. and Wednesday, September 25, 2002 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting location is the Phelps Auditorium, John G. Shedd Aquarium, 1200 South Lake Shore Drive, Chicago, IL 60605. (Please use the Group Entrance located on the South side of the John G. Shedd Aquarium.)

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW., Washington, DC, 20036, 202–418–3442, *schaff@oceancommission.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Public Law 106–256, Section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by Monday, September 16, 2002 to the meeting Point of Contact. A public comment period is scheduled for Wednesday, September 25, 2002. The meeting agenda, including the specific time for the public comment period, and guidelines for making public comments will be posted on the Commission's Web site at *http://www.oceancommission.gov* prior to the meeting.

Dated: August 13, 2002.

Thomas R. Kitsos,

Executive Director, U.S. Commission on Ocean Policy.

[FR Doc. 02–21049 Filed 8–19–02; 8:45 am]

BILLING CODE 6820–WM–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 10a–1, SEC File No. 270–413, OMB Control No. 3235–0475
Rule 12d2–1, SEC File No. 270–98, OMB Control No. 3235–0081
Rule 12d2–2 and Form 25, SEC File No. 270–86, OMB Control No. 3235–0080
Rule 17Ab2–1 and Form CA–1, SEC File No. 270–203 OMB Control No. 3235–0195
Rule 17Ad–3(b), SEC File No. 270–424, OMB Control No. 3235–0473

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget requests for approval of extension on the following:

Rule 10a–1 (17 CFR 240.10a–1) under the Securities Exchange Act of 1934 (Exchange Act) is designed to limit short selling of a security in a declining market, by requiring, in effect, that each successive lower price be established by a long seller. The price at which short sales may be effected is established by reference to the last sale price reported in the consolidated system or on a particular marketplace. Rule 10a–1 requires each broker or dealer that effects any sell order for a security registered on, or admitted to unlisted trading privileges on, a national securities exchange to mark the relevant order ticket either ''long'' or ''short.''

There are approximately 7,258 brokers and dealers registered with the national securities exchanges. The Commission has considered each of these respondents for the purposes of calculating the reporting burden under Rule 10a–1. Each of these approximately 7,258 registered broker-dealers effects sell orders for securities registered on, or admitted to unlisted trading privileges on, a national securities exchange. In addition, each respondent makes an estimated 59,071 annual responses, for an aggregate total of 428,743,000 responses per year. Each response takes approximately .000139 hours (.5 seconds) to complete. Thus, the total compliance burden per year is 59,595 burden hours.

There is no retention period requirement under Rule 10a–1. This Rule does not involve the collection of confidential information.

Rule 12d2–1 (17 CFR 240.17d2–1) was adopted in 1935 pursuant to sections 12 and 23 of the Exchange Act. The Rule provides the procedures by which a national securities exchange may suspend from trading a security that is listed and registered on the exchange. Under Rule 12d2–1, an exchange is permitted to suspend from trading a listed security in accordance with its rules, and must promptly notify the Commission of any such suspension, along with the effective date and the reasons for the suspension.

Any such suspension may be continued until such time as the Commission may determine that the suspension is designed to evade the provisions of section 12(d) of the Exchange Act and Rule 12d2–2 thereunder.[1] During the continuance of such suspension under Rule 12d2–1, the exchange is required to notify the Commission promptly of any change in the reasons for the suspension. Upon the restoration to trading of any security suspended under the Rule, the exchange must notify the Commission promptly of the effective date of such restoration.

The trading suspension notices serve a number of purposes. First, they inform the Commission that an exchange has suspended from trading a listed security or reintroduced trading in a previously suspended security. They also provide the Commission with information necessary for it to determine that the suspension has been accomplished in accordance with the rules of the exchange, and to verify that the exchange has not evaded the requirements of section 12(d) of the Exchange Act and Rule 12d2–2 thereunder by improperly employing a trading suspension. Without the Rule, the Commission would be unable to fully implement these statutory responsibilities.

There are nine national securities exchanges that are subject to Rule 12d2–

[1] Rule 12d2–2 prescribes the circumstances under which a security may be delisted, and provides the procedures for taking such action.

1. The burden of complying with the Rule is not evenly distributed among the exchanges since there are many more securities listed on the New York Stock Exchange, Inc. (''NYSE'') and the American Stock Exchange LLC (''Amex'') than on the other exchanges.[2] However, for purposes of this filing, it is assumed that the number of responses is evenly divided among the exchanges. Since approximately 173 responses under Rule 12d2–1 are received annually by the Commission from the national securities exchanges, the resultant aggregate annual reporting hour burden would be, assuming on average one-half reporting hour per response, 86.5 annual burden hours for all exchanges. The collection of information obligations imposed by Rule 12d2–1 is mandatory. The response will be available to the public and will not be kept confidential.

Rule 12d2–2 (17 CFR 240.12d2–2) and Form 25 (17 CFR 249.25) were adopted in 1935 and 1952, respectively, pursuant to Sections 12 and 23 of the Exchange Act. Rule 12d2–2 sets forth the conditions and procedures under which a security may be delisted. Rule 12d2–2 also requires, under certain circumstances, that the Exchange file with the Commission a Form 25 to delist the Security. Form 25 provides the Commission with the name of the security, the effective date of the delisting, and the date and type of event causing the delisting.

Delisting notices and applications for delisting serve a number of purposes. First, the reports and notices required under paragraphs (a) and (b) of Rule 12d2–2 (which do not require Commission action) inform the Commission that a security previously traded on an exchange is no longer traded. In addition, the applications for delisting required under paragraphs (c) and (d) of Rule 12d2–2 provide the Commission with the information necessary for it to determine that the delisting has been accomplished in accordance with the rules of the exchange and whether the delisting should be subject to any terms and conditions necessary for the protection of investors. Further, delisting applications are available to members of the public who may wish to comment or submit information to the Commission regarding the applications. Without the Rule, the Commission lacks the information necessary for it to fully meet these statutory responsibilities.

There are nine national securities exchanges that are subject to Rule 12d2–2 and Form 25. The burden of complying with Rule 12d2–2 and Form 25 is not evenly distributed among the exchanges, however, since there are many more securities listed on the NYSE and the Amex than on the other exchanges. However, for purposes of this filing, the staff has assumed that the number of responses is evenly divided among the exchanges. Since approximately 687 responses under the Rule and Form are received annually by the Commission from the national securities exchanges, the resultant aggregate annual reporting hour burden would be, assuming on average one hour per response, 687 annual burden hours for all exchanges. In addition, since approximately 52 responses are received by the Commission annually from issuers wishing to remove their securities from listing and registration on exchanges, the Commission staff estimates that the aggregate annual reporting hour burden on issuers would be, assuming on average two reporting hours per response, 104 annual burden hours for all issuers. Accordingly, the total annual hour burden for all respondents to comply with Rule 12d2–2 is 791 hours.

The collection of information obligations imposed by Rule 12d2–2 and Form 25 are mandatory. The response will be available to the public and will not be kept confidential.

Rule 17Ab2–1 (17 CFR 240.17Ab2–1) and Form CA–1 (17 CFR 249b.200) require clearing agencies to register with the Commission and to meet certain requirements with regard to, among other things, a clearing agency's organization, capacities, and rules. The information is collected from the clearing agency upon the initial application for registration on Form CA–1. Thereafter, information is collected by amendment to the initial Form CA–1 when material changes in circumstances necessitates modification of the information previously provided to the Commission.

The Commission uses the information disclosed on Form CA–1 to (i) determine whether an applicant meets the standards for registration set forth in section 17A of the Exchange Act, (ii) enforce compliance with the Exchange Act's registration requirement, and (iii) provide information about specific registered clearing agencies for compliance and investigatory purposes. Without Rule 17Ab2–1, the Commission could not perform these duties as statutorily required.

There are currently thirteen registered clearing agencies and five clearing agencies that have been granted an exemption from registration. The Commission staff estimates that each initial Form CA–1 requires approximately 130 hours to complete and submit for approval. Hours required for amendments to Form CA–1 that must be submitted to the Commission in connection with material changes to the initial CA–1 can vary, depending upon the nature and extent of the amendment. Since the Commission only receives an average of one submission per year, the aggregate annual burden associated with compliance with Rule 17Ab2–1 and Form CA–1 is 130 hours. Based upon the staff's experience, the average cost to clearing agencies of preparing and filing the initial Form CA–1 is estimated to be $17,911. There is no recordkeeping requirement for Rule 17Ab2–1 or Form CA–1. This rule and form does not involve the collection of confidential information.

Rule 17Ad–3(b) (17 CFR 240.17Ad–3) requires registered transfer agents which for each of two consecutive months have failed to turnaround at least 75% of all routine items in accordance with the requirements of Rule 17Ad–2(a) or to process at least 75% of all routine items in accordance with the requirements of Rule 17Ad–2(a) to send to the chief executive officer of each issuer for which such registered transfer agent acts a copy of the written notice required under Rule 17Ad–2(c), (d), and (h). The issuer may use the information contained in the notices in several ways: (1) to provide an early warning to the issuer of the transfer agent's non-compliance with the Commission's minimum performance standards regarding registered transfer agents, and (2) to assure that issuers are aware of certain problems and poor performances with respect to the transfer agents that are servicing the issuer's securities. If the issuer does not receive notice of a registered transfer agent's failure to comply with the Commission's minimum performance standards then the issuer will be unable to take remedial action to correct the problem or to find another registered transfer agent. Pursuant to Rule 17Ad–3(b), a transfer agent that has already filed a Notice of Non-Compliance with the Commission pursuant to Rule 17Ad–2 will only be required to send a copy of that notice to issuers for which it acts when that transfer agent fails to turnaround 75% of all routine items or to process 75% of all items.

The Commission estimates that of the seven transfer agents that filed the Notice of Non-Compliance pursuant to Rule 17Ad–2, only two transfer agents will meet the requirements of Rule 17Ad–3(b). If a transfer agent fails to meet the minimum requirements under

[2] In fact, some exchanges do not file any trading suspension reports in a given year.

17Ad–3(b), such transfer agent is simply sending a copy of a form that had already been produced for the Commission. The Commission estimates a requirement will take each respondent approximately one hour to complete, for a total annual estimate burden of two hours at cost of approximately $60.00 for each hour.

Please note that an agency may not conduct or sponsor, and a person is not required to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 12, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21125 Filed 8–19–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Pacific Exchange, Inc. (EVCI Career Colleges, Common Stock, $.0001 Par Value) File No. 1–14827

August 14, 2002.

EVCI Career Colleges, a Delaware corporation, (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.0001 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on June 14, 2002 to withdraw the Security from listing on the Exchange. The Board stated that the financial cost, time, and other Company resources required to continue listing the Security on the Exchange outweigh the benefits to the Company and its stockholders. The Issuer states that it will continue to list its Security on the Boston Stock Exchange, Inc. (''BSE'')

The Issuer stated in its application that it has complied with the rules of the PCX Equities, Inc. (''PCXE'') that govern the removal of securities from listing and registration on the Exchange. The Issuer's application relates solely to the withdrawal of the Security from listing on the PCX and shall have no affect upon the Security's continued listing on the BSE or its obligation to be registered under section 12(b) of the Act.[3]

Any interested person may, on or before September 6, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–21126 Filed 8–19–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27560]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 14, 2002.

Notice is hereby given that the following filing(s) has/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 application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 9, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) 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 September 9, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

KeySpan, Corp. et al. (70–10063)

KeySpan Corporation (''KeySpan''), a combination gas and electric registered holding company; KeySpan's utility subsidiaries: The Brooklyn Union Gas Company (''KED NY''); KeySpan Gas East Corporation (''KED LI''); and KeySpan Generation LLC (''KeySpan Generation''); KeySpan's direct nonutility subsidiaries: KeySpan Energy Corporation; KeySpan Electric Services LLC; KeySpan Exploration & Production LLC; KeySpan Technologies Inc.; KeySpan MHK, Inc.; KeySpan Corporate Services LLC; KeySpan Utility Services LLC; Marquez Development Corp.; Island Energy Services Company, Inc.; LILCO Energy Systems, Inc.; KeySpan-Ravenswood LLC; KeySpan-Ravenswood Services Corp.; KeySpan Services, Inc.; KeySpan Energy Trading Services LLC; and KeySpan Energy Supply LLC; and their respective nonutility subsidiaries; KeySpan New England, LLC (''KNE LLC''), a gas utility holding company exempt from registration under section 3(a)(1) of the Act by order;[1] KNE LLC's gas utility subsidiaries: Boston Gas Company (''Boston Gas''); Essex Gas Company (''Essex Gas''); Colonial Gas Company (''Colonial Gas''); and EnergyNorth Natural Gas, Inc. (''ENGI''); KNE LLC's nonutility subsidiaries: EE Acquisition Company, Inc.; EEG Acquisition Company, Inc.; Eastern Associated Securities Corp.; Eastern Energy Systems Corp.; Eastern Rivermoor Company, Inc.; Eastern Urban Services, Inc.; Mystic Steamship Corporation; PCC Land Company, Inc.; Philadelphia Coke Co., Inc.; Water Products Group Incorporated; Western Associated

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

[1] Holding Co. Act Release No. 27532 (May 29, 2002).

Energy Corp.; Midland Enterprises Inc.; ServicEdge Partners, Inc.; and AMR Data Corporation; Broken Bridge Corporation; EnergyNorth Realty, Inc.; and their respective subsidiaries (together, ''Applicants''), One MetroTech Center, Brooklyn, NY 11201, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 45 and 53 under the Act.

I. Background

KeySpan is a registered public-utility holding company. In an order dated November 7, 2000,[2] as supplemented by the order dated December 1, 2000 [3] (together, the ''Merger Order''), the Commission approved KeySpan's acquisition of Eastern Enterprises (''Merger''). In addition, on November 8, 2000, the Commission issued an order,[4] as supplemented by an order issued on December 1, 2000 [5] (together, the ''Financing Order''), authorizing a program of external financings, credit support arrangements and related proposals for KeySpan and its subsidiaries.

KeySpan directly or indirectly owns the following seven public-utility companies: (1) KED NY, which distributes natural gas at retail to residential, commercial and industrial customers in the New York City Boroughs of Brooklyn, Staten Island and Queens; (2) KED LI, which distributes natural gas at retail to customers in New York State located in the counties of Nassau and Suffolk on Long Island and the Rockaway Peninsula in Queens County; (3) KeySpan Generation, which owns and operates electric generation capacity located on Long Island all of which is sold at wholesale to the Long Island Power Authority (''LIPA'') for resale by LIPA to its approximately 1.1 million customers; (4) Boston Gas, which distributes natural gas to customers located in Boston and other cities and towns in eastern and central Massachusetts; (5) Essex Gas, which distributes natural gas to customers in eastern Massachusetts to customers; (6) Colonial Gas, which distributes natural gas to customers located in northeastern Massachusetts and on Cape Cod; and (7) ENGI, which distributes natural gas to customers located in southern and central New Hampshire, and the City of Berlin located in northern New Hampshire. KED NY, KED LI, KeySpan Generation, Boston Gas, Colonial Gas, Essex Gas and ENGI are collectively referred to as the ''Utility Subsidiaries''. Together, KED NY and KED LI serve approximately 1.66 million customers. Together, Boston Gas, Colonial Gas and Essex Gas serve approximately 768,000 customers. ENGI serves approximately 75,000 customers. KeySpan, through its Subsidiaries,[6] engages in energy related non-utility activities as described in the Merger Order.

In the Financing Order,[7] the Commission authorized KeySpan and its Subsidiaries to engage in a program of external and intrasystem financings (including credit support arrangements), to organize and acquire the securities of specified types of subsidiaries (including exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs'')) and to engage in other financial and structural transactions from time to time through December 31, 2003 (''Authorization Period'').

Among other specific approvals granted in the Financing Order, the Commission authorized:

(1) KeySpan, directly or indirectly through its affiliates or Subsidiaries, to have aggregate investments in EWGs and FUCOs up to 250% of KeySpan's consolidated retained earnings (''EWG/FUCO Investment Approval'');

(2) KeySpan, subject to an aggregate amount of $5.1 billion (''Aggregate Financing Amount'') and other financing parameters set forth in the Financing Order, to (i) maintain existing financings, and (ii) issue and sell through the Authorization Period up to $1.5 billion of additional securities at any time outstanding (''Additional Financing Approval'');

(3) The Utility Subsidiaries, to the extent not exempt under rule 52, to issue, sell and have outstanding at any one time during the Authorization Period new debt securities with maturities of one year or less up to the specified amounts (''Utility Short-Term Debt Amounts''): KED NY ($250 million); KED LI ($185 million); KeySpan Generation ($50 million); Boston Gas ($150 million); Colonial Gas ($75 million); Essex Gas ($20 million); and ENGI ($35 million);

(4) KeySpan and the Subsidiaries to acquire the equity securities of one or more special-purpose subsidiaries organized solely to facilitate a financing and to guaranty the securities issued by these Financing Subsidiaries (as defined below), to the extent not exempt under rule 45(b) and rule 52 (''Financing Subsidiary Approval''); and

(5) KeySpan to (i) maintain in effect and to amend, renew, extend and/or replace any and all of its existing guarantees, letters of credit, expense agreements and other forms of credit support (''Guarantees'') with respect to the obligations of the Subsidiaries or which may be entered into or given prior to the completion of the Merger including the Guarantees listed in Exhibit C to the application in SEC File No. 70–9699 (''Financing Application'') which were approximately $2 billion and (ii) enter into additional Guarantees (i.e., in addition to the existing Guarantees) up to an additional aggregate principal amount of $2 billion (not including the existing Guarantees at the time of the Merger). Included in the Exhibit C Guarantees authorized by the Financing Order were a $13,000,000 guarantee and $12,000,000 guarantee KeySpan had provided to Hawkeye Construction, LLC (''Hawkeye''), a non-affiliate, under an agreement entered into in June 2000 prior to the Merger.

II. Terms and Conditions of the Financing [8]

Financings by each Applicant will be subject to the following conditions (''Financing Parameters''): (1) During the Authorization Period, KeySpan's common equity will be at least 30% of its consolidated capitalization, and each Utility Subsidiary's common equity will be at least 30% of its capitalization; (2) any long-term debt issued by KeySpan to unaffiliated parties under the authority requested in this application-declaration will be rated investment grade or will meet the qualifications for being rated investment grade by a nationally recognized statistical rating organization; (3) the effective cost of money on long-term debt financings will not exceed 500 basis points over comparable term U.S. Treasury securities and the effective cost of money on short-term debt financings will not exceed 500 basis points over the comparable term London Interbank Offered Rate (''LIBOR''); (4) the effective cost of money on preferred stock and other fixed-income oriented securities will not exceed 500 basis points over LIBOR; (5) the maturity of indebtedness will not exceed 50 years; and (6) the underwriting fees, commissions, and other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security will not exceed an amount or percentage of the principal or total amount of the security being issued that would be charged to other companies with a

[2] Holding Co. Act Release No. 27271.

[3] Holding Co. Act Release No. 27287.

[4] Holding Co. Act Release No. 27272.

[5] Holding Co. Act Release No. 27286.

[6] Each directly and indirectly owned subsidiary of KeySpan is referred to individually as a ''Subsidiary'' and collectively as ''Subsidiaries.''

[7] Holding Co. Act Release Nos. 27272 (Nov. 8, 2000) and 27286 (Dec. 1, 2000).

[8] These terms and conditions are the same as those set forth in the Financing Order.

similar credit rating and credit profile in a comparable arm's-length transaction.

The proceeds from the financings proposed in this application-declaration will be used for lawful corporate purposes, including: (1) Refinancing acquisition debt for the Merger; (2) financing investments by and capital expenditures of KeySpan and its Subsidiaries; (3) the repayment, redemption, refunding or purchase by KeySpan or any Subsidiary of any of its own securities under rule 42 under the Act; and (4) financing working capital requirements of KeySpan and its Subsidiaries.

III. Requested Authority

Generally, KeySpan and the Subsidiaries request the following modifications to the Financing Order authorizations with respect to the above-described approvals:

(1) Modification of the EWG/FUCO Investment Approval to permit KeySpan, either directly or through its affiliates or Subsidiaries, to make aggregate investments (as defined in rule 53) up to $2.2 billion dollars in EWGs and FUCOs during the Authorization Period. The proposed EWG/FUCO Investment Approval limit represents approximately 418% of KeySpan's consolidated retained earnings for the four quarters ended March 31, 2002;

(2) An increase of the Additional Financing Amount from $1.5 billion to $2.2 billion and an increase in the Aggregate Financing Amount from $5.1 billion to $5.8 billion, during the Authorization Period;

(3) An increase in the Utility Short-Term Debt Amounts during the Authorization Period as specifically set forth below;

(4) Modification of the Financing Subsidiary Approval so that KeySpan, in addition to the Subsidiaries, can issue long-term debt to the Financing Subsidiaries that may be subordinated to other long-term debt issued by KeySpan from time to time; and

(5) Authorization to include within KeySpan's existing Guarantee authority an additional guarantee obligation of $60,000,000 it has to Hawkeye under the June 2000 agreement which KeySpan failed to include in the Financing Application.

A. EWG/FUCO Investment Approval

In the Financing Order, the Commission authorized KeySpan, directly or indirectly through its affiliates and Subsidiaries, to have ''aggregate investments'' (as defined in rule 53) in EWGs and FUCOs up to 250% of KeySpan's ''consolidated retained earnings'' (also as defined in rule 53). KeySpan requests that the Commission permit KeySpan, directly or indirectly through its affiliates or Subsidiaries, to make ''aggregate investments'' in existing and future EWGs and FUCOs through the Authorization Period of up to $2.2 billion, which represents approximately 418% of KeySpan's consolidated retained earnings for the four quarters ended March 31, 2002. At March 31, 2002, the consolidated amount of KeySpan's anticipated or current aggregate investment in existing EWGs and FUCOs was $791,000,000, which represents approximately 150% of KeySpan's consolidated retained earnings at March 31, 2002 ($525,588,000).

B. Additional Financing Approval

KeySpan requests that the Commission increase the Additional Financing Amount of $1.5 billion approved in the Financing Order to $2.2 billion in the aggregate during the Authorization Period. Applicants state the increase of $700 million is necessary to ensure that KeySpan has flexibility with regard to its financing authority to obtain additional capital through debt or security issuances, as may be needed, to accommodate the EWG and FUCO investments up to the proposed $2.2 billion requested above. KeySpan further requests that the Commission increase the Aggregate Financing Amount on existing and Additional Financing Amounts from $5.1 billion to $5.8 billion, to reflect the increase of $700 million in the Additional Financing Amount requested.

KeySpan also requests authorization to issue long-term debt securities that may be convertible into or exchanged for KeySpan common stock. KeySpan's issuance and sale of additional securities up to the $2.2 billion for the Additional Financing Amount, and $5.8 billion for the increase in the Aggregate Financing Amount, will be subject to the Financing Parameters set forth above and any other applicable conditions, commitments or restrictions contained in the Financing Order or this proceeding that are applicable to these security issuances.

C. Utility Subsidiary Financings

The Utility Subsidiaries request that the Commission increase the Utility Short-Term Debt Amount during the Authorization Period to permit the Utility Subsidiaries to issue short-term debt up to the aggregate principal amounts and in accordance with the applicable Financing Parameters set forth above: KED NY ($300 million); KED LI ($300 million); KeySpan Generation ($75 million); Boston Gas ($500 million); Colonial Gas ($125 million); Essex Gas ($25 million); and ENGI ($125 million).

In the Financing Order, the Commission also approved the ''Utility Money Pool'' but limited the amount each Utility Subsidiary could borrow at any one time during the authorization period to its applicable Utility Short-Term Debt Amount. The Utility Subsidiaries request that the aggregate amounts that each Utility Subsidiary may borrow at any one time from the Utility Money Pool be increased to correspond to the aggregate amounts for each Utility Subsidiary set forth above. Except for the modification in borrowing amounts, no other change is requested for the Utility Money Pool as approved in the Financing Order.

D. Financing Subsidiaries

In the Financing Order, the Commission authorized KeySpan and the Subsidiaries to organize new corporations, trusts, partnerships or other entities created for the purpose of facilitating financings through their issuance to third parties of income preferred securities or other authorized securities or issued under an applicable exemption (''Financing Subsidiaries''). The Financing Order approved the following requests:

1. Authorization of these Financing Subsidiaries to issue securities to third parties in the event the issuances are not exempt under rule 52;

2. Authorization (a) to issue debentures or other evidences of indebtedness by any of the Subsidiaries to a Financing Subsidiary in return for the proceeds of the financing, (b) of the acquisition by any of the Subsidiaries of voting interests or equity securities issued by a Financing Subsidiary to establish any such Subsidiary's ownership of a Financing Subsidiary (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, ranging from one to three percent of the capitalization of the financing entity) and (c) of the guarantee (both payment and performance) by KeySpan of such Financing Subsidiaries' obligations.

3. Authorization of each of the Subsidiaries to enter into an expense agreement with its respective Financing Subsidiary, under which it would agree to pay all expenses of the Financing Subsidiary; and

4. Any amounts issued by the Financing Subsidiaries to third parties under this authorization will be included in the overall external

financing limitation authorized in the Financing Application for the immediate parent of the financing entity. However, the underlying intra-system mirror debt and parent guarantee shall not be so included.

KeySpan requests that the Commission modify the authorizations in the Financing Order regarding the Financing Subsidiaries as follows: (i) With respect to item 1 above, authorization for these Financing Subsidiaries to issue preferred stock or other securities that are convertible into or exchangeable for KeySpan common stock; (ii) with respect to item 2(a) above, KeySpan, in addition to its Subsidiaries, has authority to issue debentures or other evidences of indebtedness to a Financing Subsidiary in return for the proceeds of the financing; (iii) with respect to item 2(b) above, KeySpan, in addition to its Subsidiaries, has authority to acquire voting interests or equity securities issued by a Financing Subsidiary to establish any such Subsidiary's ownership of a Financing Subsidiary (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, ranging from one to three percent of the capitalization of the financing entity); (iv) with respect to item 3 above, KeySpan, in addition to each of the Subsidiaries, is authorized to enter into an expense agreement with its respective Financing Subsidiary, under which it would agree to pay all expenses of the Financing Subsidiary; and (v) with respect to item 4 above, any amounts issued by these Financing Subsidiaries to third parties under this authorization will be included in the overall external financing limitation authorized in the Financing Order or this proceeding, as applicable, for the immediate parent of the financing entity.

In addition, the Financing Order authorized KeySpan to issue debt securities under the KeySpan Indenture. In connection with the modifications requested above regarding KeySpan's actions in connection with Financing Subsidiaries, KeySpan requests that its authorization under the Financing Order be modified to include the following: (a) Any securities issued by KeySpan will be unsecured and, except as set forth in (b) below, unsubordinated obligations of KeySpan, and (b) debt securities issued only to a direct Financing Subsidiary of KeySpan may be subordinated debt of KeySpan and may be issued either under the KeySpan Indenture, a supplemental indenture entered into with a new trustee under the KeySpan Indenture or under a new indenture that will contain provisions substantially similar to those contained in the KeySpan Indenture.

E. Guarantees

In addition, the Financing Order authorized KeySpan to maintain in effect and to amend, renew, extend and/or replace any and all of its existing guarantees, letters of credit, expense agreements and other forms of credit support (''Guarantees'') with respect to the obligations of the Subsidiaries or which may be entered into or given prior to the completion of the Merger including the Guarantees listed in Exhibit C to the Financing Application. As stated in the Financing Application, at that time KeySpan had approximately $2 billion in Guarantees outstanding which were expected to remain in place following the Merger. The Financing Order further authorized KeySpan to enter into additional Guarantees (*i.e.*, in addition to the existing Guarantees), subject to the appropriate Financing Parameters, with respect to the obligations of the Subsidiaries as may be appropriate or necessary to enable such companies to carry on in the ordinary course of their respective businesses in an aggregate principal amount not to exceed $2.0 billion outstanding at any one time (not taking into account obligations exempt under rule 45).

At the time it received the Guarantees authorizations, KeySpan contemplated that all of its existing Guarantees be included within the scope of the Financing Order. However, in listing its existing Guarantees in Exhibit C of the Financing Application, KeySpan states that it inadvertently failed to include certain of its contractual obligations to Hawkeye (formerly known as KeySpan Energy Construction, LLC), which existed prior to the Merger under a written agreement, dated June 20, 2000 (''Purchase Agreement''), regarding the sale of KeySpan's subsidiary then known as KeySpan Energy Construction, LLC (''KECL''). At the Purchase Agreement closing which occurred prior to the Merger, all of KeySpan's ownership interests in KECL were transferred to WJH Equities, LLC, an unaffiliated entity. Subsequent to this transfer, KECL changed its name to Hawkeye.

The Purchase Agreement, provides, *inter alia*, that (i) KeySpan, through October 25, 2004, is obligated to make and execute guarantees of Hawkeye's debt to Hawkeye's lenders in an aggregate principal amount of up to $13,000,000 (the ''$13,000,000 Guaranty''); and (ii) KeySpan, through October 25, 2004, is obligated take such steps (and provide such guarantees and assurances) as Hawkeye may require to enable it to obtain bonds (including payment, performance and completion bonds) as Hawkeye may deem necessary or desirable in connection with projects to be undertaken by Hawkeye up to a maximum in the aggregate of bonds totaling $60,000,000 in each calendar year (the ''$60,000,000 Guaranty''). In addition, KeySpan is obligated to provide support for a line of credit issued to an affiliate of Hawkeye in an amount up to $12,000,000.

In Exhibit C of the Financing Application, KeySpan included its obligations to Hawkeye with respect to the $13,000,000 Guaranty and the $12,000,000 support for a line of credit. However, KeySpan states that it inadvertently failed to include in its request the existing $60,000,000 Guaranty obligation to Hawkeye under the Purchase Agreement.

KeySpan requests that the Commission authorize KeySpan to make and provide additional guarantees and assurances to Hawkeye up to an aggregate of $60,000,000 in any calendar year as set forth above. The $60,000,000 Guaranty will be included in the total dollar amount of Guarantees currently authorized by the Commission. KeySpan will in no event exceed its $2.0 billion limit on future Guarantees previously set by the Financing Order.

Except as stated in the application-declaration, KeySpan and the Subsidiaries are not seeking any other changes or modifications to the terms, conditions or limitations otherwise applicable under the Financing Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21127 Filed 8–19–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46350; File No. SR–NASD–2002–86]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. To Establish and Set a Fee for a New Data Feed for the Nasdaq InterMarket

August 14, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 Nasdaq. On July 19, 2002, Nasdaq amended the proposal.[3] 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

Nasdaq proposes to amend NASD Rule 7010(c), to make available a new data feed of market participant quotations from the Nasdaq InterMarket, Nasdaq's facility for over-the-counter trading of exchange-listed securities, and set a fee for purchase of that feed. The text of the proposed rule change is below. Proposed additions are in italics.

7010 System Services

(a)—(b) No Change.

(c) (1)—(2) No Change.

(3) The charge to be paid by the subscriber for each terminal receiving the iM Quotes Service shall be $6 per month.

(d)—(r) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* July 19, 2002 letter from Jeffrey S. Davis, Associate General Counsel, Nasdaq, to Joseph Morra, Special Counsel, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, Nasdaq substituted new proposed rule language for the language provided in the original filing.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Today, Nasdaq provides the quotation information for participants in the Nasdaq InterMarket to the Securities Industry Automation Corporation (''SIAC''). SIAC, in turn, disseminates this real-time information via its Consolidated Quotation Service (''CQS'') data feed along with the best bids and offers (''BBOs'') from exchanges that participate in the Consolidated Quotations Plan (''CQ Plan''). Because Nasdaq operates as a national securities association, and not as an exchange, it is required and permitted to disseminate its InterMarket market participant quotations through SIAC, the securities information processor for the CQ Plan.

Once Nasdaq is an exchange, it will no longer be able to disseminate market participant quotations through SIAC because Rule 11Ac1–1 under the Act[4] only provides for the dissemination of exchanges' BBOs through the consolidated data streams. As an exchange, Nasdaq's BBO will be disseminated through SIAC and factored into SIAC's calculation of the National BBO in NYSE- and Amex-listed issues.

Because Nasdaq InterMarket participants rely on the real-time market participant quotations, it is critical that Nasdaq continue to provide this information after it has registered as an exchange. Market participant quotations facilitate market participants' order routing decisions and are a source of market transparency regarding the depth and interest in the InterMarket that is useful to both traders and investors. Nasdaq is developing the ''iM Quotes'' data feed that will provide broker-dealers and market data vendors with access to real-time InterMarket participant quotations once Nasdaq is an exchange. Twenty-two market data distributors, including a number of broker-dealers, have already ordered the iM Quotes data feed.

The $6 monthly per terminal fee will apply to all subscribers that access the iM Quotes market participant data on a real-time basis, either through a market data vendor like Bloomberg, ILX, or Reuters or through internal dissemination systems operated by broker-dealers. The $6 charge will include all issues quoted through the InterMarket including both Amex- and NYSE-listed issues. Today, subscribers to Amex and/or NYSE data are entitled to the corresponding InterMarket participant quotations that are disseminated by SIAC through the CQS data feed, although some market data vendors do not offer that data to their subscribers.

The proposed fee was derived, in part, on the anticipated traffic through the service in comparison to existing Nasdaq data feed services. Average daily message traffic in the iM Quotes feed is anticipated to be about 900,000 messages per day. This is about 11% of the average daily traffic associated with NQDS, the data feed that supports market participant quotations in Nasdaq-listed issues. The $6 iM Quotes fee is 15% of the proposed fee of $40 for QuoteView, which is the data entitlement, based on the NQDS data feed. In addition, Nasdaq considered the current costs of operating the NQDS data feed, and projected the annual operating costs for iM Quotes, adjusting for anticipated differences in traffic.

While the new data service will be introduced as early as September of 2002, Nasdaq will defer the effective date for this fee until January 1, 2003.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[5] in general, and with section 15A(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among member and issuers and other persons using any facility or system which the association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

[4] 17 CFR 240.11Ac1–1.

[5] 15 U.S.C. 78o–3.

[6] 15 U.S.C. 78o–3(b)(5).

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2002–86 and should be submitted by September 10, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21128 Filed 8–20–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46337; File No. SR–NSCC–2002–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying NSCC's Rules to Accept Trade Input for Debt Security Trades Executed on the American Stock Exchange from its Members for Comparison Processing

August 12, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 14, 2002, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will allow NSCC to accept directly from NSCC members for processing in NSCC's trade comparison service debt security trades executed on the American Stock Exchange (''Amex'') that were previously reported to NSCC by the New York Stock Exchange's (''NYSE'') Online Comparison System (''OCS'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

With the elimination of the use of OCS by the NYSE for debt security trades executed on the Amex, NSCC is modifying its rules in order to accept trade input for such trades from members for comparison processing. The proposed rule change will allow NSCC to process these trades in the same manner that it processes over-the-counter corporate bond trades submitted directly to it by its members for comparison. In addition, the proposed rule change reflects technical changes regarding (i) the use of Withhold tickets and (ii) the submission to NSCC of debt securities trades executed on the NYSE[3] to conform the rules to current practice.

This filing enables debt security trades executed on the Amex[4] to be submitted to NSCC in a cost efficient manner that is currently utilized by NSCC in connection with similar types of trades; therefore, NSCC believes it is consistent with the provisions of Section 17A of the Act, as amended, and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change effects a change in an existing service of NSCC that (i) does not adversely affect the safe-guarding of securities or funds in the custody or control of the clearing agency or for which it is responsible, and (ii) does not significantly affect the respective rights and obligations of the clearing agency or persons using the service, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[5] and Rule 19b–4(f)(4)[6] promulgated thereunder. At any time within sixty 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 proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] All debt security trades executed on the NYSE are now submitted to NSCC by the NYSE Automated Bond System.

[4] NSCC will also process other debt security trades that may have been previously submitted to NSCC via OCS if the trades are eligible to be processed in its Fixed Income Transaction System.

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(4).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NSCC. All submissions should refer to the File No. SR–NSCC–2002–04 and should be submitted by September 10, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21067 Filed 8–19–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46344; File No. SR–NYSE–2001–44]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 of the Proposed Rule Change by the New York Stock Exchange, Inc. Relating to NYSE Rule 407 (''Transactions—Employees of Members, Member Organizations and the Exchange'')

August 13, 2002.

On October 22, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] the proposed rule change to incorporate and amend an existing written interpretation of NYSE Rule 407 to require that associated persons obtain their employers' written approval before entering into private securities transactions, and define the terms ''securities or commodities account,'' ''private securities transactions,'' and ''other financial institution.'' The proposed rule change was published in the **Federal Register** on December 4, 2001.[3] The Commission received three comments on the proposed rule change.[4] On December 12, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.[5] On April 16, 2002, the NYSE filed a response to the comment letters.[6] On July 3, 2002, the NYSE submitted Amendment No. 2 to the proposed rule change.[7] This order approves the proposed rule change, as amended, and approves Amendment No. 2 on an accelerated basis.

I. Description of the Proposed Rule Change

NYSE Rule 407(b) requires that members, allied members and employees obtain prior written consent from their employers in order to open and maintain a securities or commodities account at another broker-dealer, investment adviser, bank or other financial institution. Employers of such associated persons must receive duplicate confirmations and statements of such accounts.

The Exchange proposes to amend NYSE Rule 407, and incorporate and amend an existing interpretation of NYSE Rule 407 in the *NYSE Interpretation Handbook*, to require that associated persons of members or member organizations obtain their employers' written approval (rather than notification) before entering into private securities transactions. The Exchange also proposes that associated persons effecting private securities transactions shall arrange for duplicate confirmations and statements (or their equivalents) to be sent to another person designated by their member or member organization under NYSE Rule 342(b)(1) (''Offices—Approval, Supervision and Control'') to periodically review such transactions.

The Exchange proposes to define the terms ''securities or commodities account,'' ''private securities transactions'' and ''other financial institution.'' The Exchange also proposes to amend NYSE Rule 407 to provide the Exchange with the general authority to waive any of the requirements of the rule upon written request of a member or member organization that has the obligation to approve the account and where good cause is shown.

II. Summary of Comments

The Commission received three comment letters on the proposal.[8] The commenters generally supported the NYSE's proposal to require member firms to conduct a transactional-based review of private securities transactions.[9] However, the commenters recommended certain technical changes to the proposed rule language to reflect the purpose of the proposed rule change.[10] Further, one commenter stated that, although the proposal requires that associated persons effecting private securities transactions arrange for duplicate confirmations and statements (or their equivalents), there may be instances in which confirmations and statements would not be available.[11] Therefore, the commenter believed that in absence of confirmations and statements, a private placement memorandum, offering circular, or subscription agreement may be more appropriate to review.

Regarding the commenters' concerns about clarifying the proposed rule language, the NYSE believed it was not necessary to clarify the text of the proposed rule change.[12] In response to the commenter's suggestions of other

[7] 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. 45097 (November 21, 2001), 66 FR 63084.

[4] *See* letters to Jonathan G. Katz, Secretary, Commission, from Michael Dardis, Vice President, Compliance Manager, Wells Fargo Investments, dated January 11, 2002 (''Wells Fargo Letter''); and Les Klein, Managing Director, Solomon Smith Barney, dated January 11, 2002 (''SSB Letter''). *See also* letter from Brian C. Underwood, Senior Vice President, Director of Compliance, A.G. Edwards & Sons, Inc., to Katherine England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated January 24, 2002 (''A.G. Edwards Letter'').

[5] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated December 11, 2001 (''Amendment No. 1''). Amendment No. 1 modifies the proposed definition of a ''securities or commodities account,'' by adding a non-inclusive phrase to be consistent with the proposed definitions of other terms in the proposed rule text. This was a technical amendment and is not subject to notice and comment.

[6] *See* letter from Richard P. Bernard, Executive Vice President and General Counsel, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated April 15, 2002 (''NYSE Response Letter'').

[7] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Katherine A. England, Assistant Director, Division, Commission, dated July 5, 2002 (''Amendment No. 2''). Amendment No. 2 clarifies that the proposed rule text shall apply to associated persons of members or member organizations that either establish or maintain a securities or commodities account, or a private securities transaction. In addition, Amendment No. 2 modifies the proposed rule text to require members and member organizations to develop and maintain written procedures for reviewing any securities or commodities accounts, or private securities transactions.

[8] *See* note 4, *supra.*

[9] *See* Wells Fargo Letter; SSB Letter; A.G. Edwards Letter.

[10] *Id.*

[11] *See* A.G. Edwards Letter.

[12] *See* NYSE Response Letter (stating that the NYSE would clarify the requirements of the rule in an Information Memo upon approval of the proposal by the Commission).

documents that NYSE members and member organizations review in the absence of confirmations and statements on private securities transactions, the NYSE stated that the proposed rule language currently addresses this concern by providing for the review of confirmations, statements, ''or their equivalents.'' [13] The NYSE also stated that it expects members and member organizations to monitor individual transactions based on the information available to them.[14] Further, the NYSE stated that where confirmations and statements were not available from the issuers, members and member organizations would be required to develop and implement policies, which among other things, provide for periodic updates and attestations from employees as to their existing, and any additional, private securities transactions.[15]

III. Discussion

After careful review, 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.[16] In particular, the Commission finds that the proposal, as amended, is consistent with Section 6(b)(5) of the Act,[17] which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

The Commission believes that requiring associated persons of members or member organizations to obtain their employers' written approval before entering into private securities transactions will provide member organizations another tool to assist in carrying out their supervisory responsibilities. In addition, it will make for more consistent regulation across the industry.[18] After careful consideration of the commenters' concerns about the proposed rule language and its requirements, the Commission believes that the proposal sufficiently addresses the types of information that would be necessary to be reviewed by a designated Exchange member or member organization. The Commission believes that the proposed rule change should assist the Exchange and its members and member organizations in monitoring employee transactions for possible conflicts of interest or violations of self-regulatory organization or SEC requirements.

IV. Amendment No. 2 of the Proposed Rule Change

The Commission finds good cause for approving Amendment No. 2 of the proposed rule change prior to the thirtieth day after notice of publication in the **Federal Register**. Amendment No. 2 clarifies that the proposal applies to associated persons of members or member organizations that either establish or maintain a securities or commodities account, or a private securities transaction. In addition, Amendment No. 2 modifies the proposed rule text to require members and member organizations to develop and maintain written procedures for reviewing any securities or commodities accounts, or private securities transactions. The Commission believes that it is not necessary to separately solicit comment on Amendment No. 2 before approving this proposal because Amendment No. 2 makes changes to clarify the responsibilities of Exchange members, member organizations, and their employees, pursuant to this rule. The Commission therefore finds that the approval of Amendment No. 2 on an accelerated basis is appropriate.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether the amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE–2001–44 and should be submitted by September 10, 2002.

VI. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[19] that the proposed rule change (SR–NYSE–2001–44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21129 Filed 8–19–02; 8:45 am]

BILLING CODE 8010–01–P

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15. U.S.C. 78f(b)(5).

[18] *See* NASD Rule 3040.

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region I Regulatory Fairness Board

The Small Business Administration Region I Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Tuesday, September 17, 2002 at 9 a.m. at the Thomas P. O'Neil Federal Building, Auditorium—First Floor, 10 Causeway Street, Boston, MA 02222, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by Federal agencies.

Anyone wishing to attend or to make a presentation must contact David Polatin in writing or by fax, in order to be put on the agenda. David Polatin, U.S. Small Business Administration, Massachusetts District Office, 10 Causeway Street, Suite 812, Boston, MA 02222, phone (617) 565–5562, fax (617) 565–5597, e-mail *david.polatin@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: August 13, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–21078 Filed 8–19–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4101]

Office of Educational and Cultural Affairs (ECA/EC/PS); 30-Day Notice of Proposed Information Collection: Form DS–3036, Exchange Visitor Program Application and Form DS–3037, Update of Information on Exchange Visitor Program Sponsor; OMB Control Number 1405–0120

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this Notice.

OMB Approval Number 1405–0120

The following summarizes the information collection proposal submitted to OMB:

Type of Request: An extension of a currently approved collection.

Originating Office: Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs.

Title of Information Collection: Exchange Visitor Program Application—DS–3036; Update of Information on Exchange Visitor Program Sponsor—DS–3037.

Frequency: DS–3036—Approximately 150 new organizations submit applications to be designated as Exchange Visitor Program sponsors each year. DS–3037—The Department has approximately 1500 currently designated sponsors. It is estimated that each designated organization makes two submissions annually to update information on their Program or to order Form DS–2019, brochures and supplies to administer their Program.

Form Number: DS–3036/DS–3037.

Respondents: U.S. government, and public and private organizations wishing to become designated sponsors and Department of State designated sponsors.

Estimated Number of Respondents: DS–3036—150; DS–3037—3,000.

Average Hours per Response: DS–3036—20 minutes; DS–3037—8 hours.

Total Estimated Burden: DS–3036—1200 hours; DS–3037—1,000 hours.

Public comments are being solicited to permit the Department to:

—Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the Department, including whether the proposed information collection is necessary for the proper performance of the functions of the Department.

• Evaluate the accuracy of the Department's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Sally J. Lawrence, Chief, Private Sector Division, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, U.S. Department of State, 301 Fourth Street, SW., Room 734, Washington, DC 20547; telephone 202–401–9810. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: August 5, 2002.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–21172 Filed 8–19–02; 8:45 am]

BILLING CODE 4710–05–U

DEPARTMENT OF STATE

[Public Notice 4044]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Notice of Meeting

The Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea will conduct an open meeting at 1 PM on Tuesday, September 10, 2002, in Room 3200 of the Department of Transportation Headquarters, 400 Seventh Street, SW, Washington, DC 20590–0001. The primary purpose of the meeting is to prepare for the Seventh Session of International Maritime Organization (IMO) Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC 7), to be held at the IMO Headquarters in London, England from September 23 to September 27, 2002.

The primary matters to be considered include:

a. Amendments to the International Maritime Dangerous Goods (IMDG) Code, its Annexes and Supplements including harmonization of the IMDG Code with the United Nations Recommendations on the Transport of Dangerous Goods, and implementation of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended.

b. Review of the Code of Safe Practice for Solid Bulk Cargoes (BC Code), including evaluation of properties of solid bulk cargoes.

c. Cargo securing manual.

d. Casualty and incident reports and analysis.

e. Development of an instrument for multimodal training requirements.

f. Stowage and segregation requirements for freight containers on containerships with partially weatherproof hatchway covers.

g. Development of a manual on loading and unloading of solid bulk cargoes for terminal representatives.

h. Guidance on serious structural deficiencies in containers.

i. Measures to enhance maritime security.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. E. P. Pfersich, U.S. Coast Guard (G–MSO–3), Room 1210, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: August 8, 2002.

Stephen Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 02–21169 Filed 8–19–02; 8:45 am]

BILLING CODE 4710–07–U

DEPARTMENT OF STATE

[Public Notice 4080]

Shipping Coordinating Committee, Subcommittee for the Prevention of Marine Pollution; Notice of Meeting

The Shipping Coordinating Committee, Subcommittee for the Prevention of Marine Pollution, will conduct an open meeting at 9:30 a.m. on Thursday, September 26, 2002, in Room 2415 at the U.S. Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593.

The purpose of this meeting will be to review the agenda items to be considered at the forty-eighth Session of the International Maritime Organization (IMO) Marine Environment Protection Committee (MEPC 48) to be held at the IMO Headquarters in London from 7 through 11 October 2002. Proposed U.S. positions on the agenda items for MEPC 48 will be discussed.

The primary matters to be considered include:

a. Harmful aquatic organisms in ballast water;

b. Recycling of ships;

c. Prevention of air pollution from ships;

d. Consideration and adoption of amendments to mandatory instruments;

e. Implementation of the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) and the OPRC-Hazardous Noxious Substances Protocol (OPRC–HNS) and relevant conference resolutions;

f. Identification and protection of Special Areas and Particularly Sensitive Sea Areas;

g. Inadequacy of reception facilities;

h. Promotion of implementation and enforcement of the International Convention on the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) and related Codes;

i. Technical co-operation program;

j. Interpretation and amendments of MARPOL 73/78 and related Codes;

k. Harmful effects of the use of anti-fouling paints for ships; Future role of formal safety assessment and human element issues;

l. Future role of formal safety assessment and human element issues; and

m. Work program of the Committee and subsidiary bodies.

Please note that hard copies of documents associated with MEPC 48 will not be available at this meeting. Documents will be available in Adobe Acrobat format on CD–ROM on the day of the meeting. To request documents prior to the meeting date, please write to the address or place a request for the documents via the web link provided below.

Members of the public may attend the meeting up to the seating capacity of the room. For further information, or to submit views in advance of the meeting, please contact Lieutenant Commander David Beck, U.S. Coast Guard, Environmental Standards Division (G–MSO–4), 2100 Second Street, SW., Washington, DC 20593–0001; telephone (202) 267–0713; fax (202) 267–4690, e-mail *dbeck@comdt.uscg.mil*; or on-line at: *http://www.uscg.mil/hq/g-m/mso/mso4/mepc.html*.

Dated: August 8, 2002.

Stephen Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 02–21170 Filed 8–19–02; 8:45 am]

BILLING CODE 4710–07–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2002–13126]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0141

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR concerns Lifesaving, Electrical, and Engineering Equipment, Construction, and Materials. Before submitting the ICR to OMB, the Coast Guard is inviting comments on it.

DATES: Comments must reach the Coast Guard on or before October 21, 2002.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2002–13126] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

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

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

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

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

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2002–13126], and give the reasons for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

Title: 46 CFR Subchapter Q: Lifesaving, Electrical, and Engineering Equipment, Construction, and Materials.

OMB Control Number: 2115–0141.

Summary: The Coast Guard needs to collect this information so it can ensure compliance with rules governing specific types of safety equipment and material installed on commercial vessels and pleasure craft. Manufacturers must submit drawings, specifications, and laboratory test reports to the Coast Guard before it grants any approval.

Need: 46 U.S.C. 2103, 3306, 3703, and 4302 authorize the Coast Guard to establish rules for safety equipment and material. 46 CFR parts 159 to 164 contain these rules. This information will help the Coast Guard determine whether manufacturers are in compliance with these rules. When the Coast Guard approves any safety equipment or material for use on a commercial vessel or pleasure craft, it issues the manufacturer a Certificate of Approval.

Respondents: Manufacturers of safety equipment and materials.

Frequency: On occasion.

Burden: The estimated burden is 16,880 hours a year.

Dated: August 13, 2002.

N. S. Heiner,

Acting Director of Information and Technology.

[FR Doc. 02–21133 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–13117]

Great Lakes Pilotage Advisory Committee; vacancy.

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC). GLPAC advises the Coast Guard on matters related to regulations and policies on the pilotage of vessels on the Great Lakes.

DATES: Application forms should reach us on or before September 19, 2002.

ADDRESSES: You may request an application form and waiver by writing to Commandant (G–MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–6164; by faxing 202–267–4700; or by e-mailing *Jshort@comdt.uscg.mil.* Send your completed application, waiver, and short resume to the above street address or by fax to 202–267–4700. This notice and the application and waiver forms are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Margie Hegy, Executive Director of GLPAC, at (202) 267–0415, fax (202) 267–4700.

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee (GLPAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Secretary of Transportation, via the Commandant of the Coast Guard, on the rules and regulations that govern the registration of pilots, the operating requirements for U.S. registered pilots, pilot training policies, and the policies and regulations that establish rates charges and conditions for pilotage services.

GLPAC meets at least twice a year at various locations in the continental United States. It may also meet for extraordinary purposes. Subcommittees or working groups may be designated to consider specific problems and will meet as required.

We will consider applications for one position that has never been filled since the GLPAC was established. The position is unique in that the member is required to have a background in finance or accounting, and the requirement for five years of practical experience in maritime operations that the other six members must meet is waived for this position. However, applicants with some knowledge of the marine industry would be desirable. Applicants who do not live or work in the Great Lakes community are specifically encouraged to apply.

All applications will be reviewed and discussed by the other six Committee members as the candidate for this position must be recommended to the Secretary of Transportation by a unanimous vote of the other members of the Committee. This discussion will occur in a public forum, however, information of a personal nature that would invade the privacy of the applicant, including his/her name, will be blacked out before the applications are made available to the public. Applicants will be asked to sign a waiver to allow discussion at a public meeting of GLPAC.

Each member serves for a term of 3 years. A few members may serve consecutive terms. All members serve without compensation from the Federal Government, although travel reimbursement and per diem will be provided.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: August 13, 2002.

J. P. Brusseau,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–21132 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–13133]

Great Lakes Pilotage Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Great Lakes Pilotage Advisory Committee (GLPAC) and its Subcommittee on Technology will meet to discuss various issues relating to pilotage on the Great Lakes. The meeting will be open to the public.

DATES: The Subcommittee will meet on Friday, September 6, 2002, from 8 a.m. to 11 a.m. GLPAC will meet on Friday, September 6, 2002, from 12 (noon) to 3:30 p.m. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 3, 2002. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before August 30, 2002.

ADDRESSES: GLPAC will meet at the St. Lawrence Hotel, Corner Main and West Orvis Street, Massena, NY 13662. Send written material and requests to make oral presentations to Margie Hegy, Commandant (G-MW), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Margie Hegy, Executive Director of GLPAC, telephone 202–267–0415, fax 202–267–4700.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

Subcommittee on Technology. The agenda includes the following:

(1) Presentation of Portable Piloting Units used by the Canadian pilots.

(2) Assessment of technology needs of U.S. pilots on the U.S. Great Lakes.

Great Lakes Pilotage Advisory Committee (GLPAC). The agenda includes the following:

(1) Update on Bridge Hour Study.

(2) Update on Pilotage Office Relocation Study.

(3) Progress report from Technology Subcommittee.

(4) Pilot attrition.

(5) Proposed AIS Carriage Requirement.

(6) GLPAC priorities—issues.

(7) Frequency of meetings.

The GLPAC meetings follow a public meeting on a bridge hour study being conducted on Great Lakes pilotage. This meeting will held on September 5, 2002, from 4 p.m. to 7 p.m. at the same location and will be formally announced in a future issue of the **Federal Register**.

Procedural

The meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive

Director no later than September 3, 2002. Written material for distribution at the meeting should reach the Coast Guard no later than September 3, 2002. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 10 copies to Margie Hegy at the address in the **ADDRESSES** section no later than August 30, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Executive Director as soon as possible.

Dated: August 14, 2002.

Joseph J. Angelo,

Acting Assistant Commandant Marine Safety, Security and Environmental Protection.

[FR Doc. 02–21131 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Engine Instructions for Continued Airworthiness

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) No. 20.XX, Turbojet, Turboprop & Turbofan Engine Induction System Icing.

DATES: Comments must be received on or before October 21, 2002.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: John Fisher, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: John Fisher, Engine and Propeller Standards Staff, ANE–110, at the above address, telephone (781) 238–7149, fax (781) 238–7199, or e-mail to *john.fisher@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named under **FOR FURTHER INFORMATION CONTACT** or by downloading the proposed AC from the following Internet Web site: *http:\\www2.airweb.FAA.gov/Regulatory_and_Guidance_Library/RgDAC.nsf/mainframe?openframeset* The FAA invites interested parties to comment on the proposed AC. Comments should identify the subject of the AC and be submitted to the individual identified under **FOR FURTHER INFORMATION CONTACT**. The FAA will consider all communications received by the closing date before issuing the final AC.

Background

This AC is on the subject of continued airworthiness of aircraft engines certificated under Title 14 of the Code of Federal Regulation (CFR) parts 33 and 25. The information and guidance presented in this AC would provide a method that can be used to demonstrate compliance with the requirements of §§ 25.1093, 33.68, 33.77, and 33.89.

On January 24, 2000, a Notice was published in the **Federal Register** (65 FR 3752), requesting public comments by February 23, 2000. Since then, those public comments, as well as other significant changes were made to the proposed AC. Therefore, this Notice announces an additional request for public comments on the revised AC proposal.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 40113, 44701–44702, 44704, provides guidance for these proposed requirements.

Issued in Burlington, Massachusetts, on August 8, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–21186 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 45–2B, Identification and Registration Marking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of Advisory Circular (AC) 45–2B, Identification and Registration Marking for review and comments. The proposed AC provides guidance and information to comply with the requirements for identifying aircraft and related products with identification plates, and identifying aircraft with nationality and registration marks. This AC provides a means, but not the only means, of demonstrating compliance with the requirements of Title 14, Code of Federal Regulations (14 CFR), part 45, Identification and Registration Marking.

DATES: Comments submitted must identify the proposed AC 45–2B and be received no later than 30 days after the date of this publication.

ADDRESSES: Copies of the proposed AC can be obtained from and comments may be returned to the following: Federal Aviation Administration, Airworthiness Certification Branch, AIR–220, Production and Airworthiness Division, Aircraft Certification Service, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David Broughton, Airworthiness Certification Branch, AIR–220, Production and Airworthiness Division, Aircraft Certification Service, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–9575.

SUPPLEMENTARY INFORMATION:

Background

Proposed AC 45–2B is written in the Plain Language format to provide information and guidance on the requirements of identifying aircraft and related products with identification plates, and identifying aircraft with nationality and registration marks.

Comments invited

Interested persons are invited to comment on proposed AC 45–2B listed on this notice by submitting such written data, views, or arguments, as they desire, to the aforementioned specified address. The Aircraft Certification Service will consider all communications received on or before the closing date before issuing the final AC.

Comments received on the proposed AC may be examined before and after the comment closing date in Room 815, FAA headquarters building, (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

Issued in Washington, DC, on August 15, 2002.

Frank P. Paskiewicz,

Manager, Production and Airworthiness Division.

[FR Doc. 02–21184 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of proposed release of 4.07 acres of land at the Charlottesville-Albemarle Airport, Charlottesville, Virginia to the Virginia Department of Transportation in exchange for 4.274 acres of land within the abandoned Route 606 Right-of-Row. There are no adverse impacts to the Airport and the land is not needed for airport development. The relocated Route 606 is shown on the Airport Layout Plan. Fair Market Value of the land has been evaluated for both parcels and will be an even exchange for the Airport Sponsor.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Bryan Elliott, Executive Director, Charlottesville-Albemarle Airport, at the following address: Bryan Elliott, Executive Director, Charlottesville-Albemarle Airport Authority, 100 Bowen Loop, Suite 200, Charlottesville, VA 22911.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166; telephone (703) 661–1354, fax (703) 661/1370, e-mail *Terry.Page@faa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2002, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2002; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Chantilly, Virginia on August 5, 2002.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 02–21140 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 29, 2002, page 21010.

DATES: Comments must be submitted on or before September 19, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Airport Master Record.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0015.

Form(s): FAA Forms 5010–1, 5010–2, 5010–3, 5010–5.

Affected Public: A total of 19,345 public and private airport operators.

Abstract: 49 USC 329(b) directs the Secretary of Transportation to collect information about civil aeronautics. The goal of this information collection is to obtain a yearly update of all airports on record and new airports with the FAA either through physical inspection or mail solicitation. The information is required to carry out FAA missions related to the aviation industry, flight planning, and airport engineering. The affected public are operators of private and public use airports.

Estimated Annual Burden Hours: An estimated 8,770 hours annually.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 14, 2002.

Judith D. Street,

FAA Information Collection Clearance Officer, Standards and Information Division, APF–100.

[FR Doc. 02–21183 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Conversion of Aircraft Records to an Electronic Record Based System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of conversion of aircraft records to an electronic record based system.

SUMMARY: The aircraft records at the Civil Aviation Registry's Aircraft Registration Branch, Oklahoma City, Oklahoma, have been maintained on updateable microfiche. Those records have been converted to an electronic record based system. Effective August 8, 2002, copies of aircraft records can be provided to requesters in either a paper format or a digital portable document format on a compact disc.

DATES: Effective August 8, 2002, those electronic records will become the official records for the Civil Aviation Registry's Aircraft Registration Branch.

FOR FURTHER INFORMATION CONTACT: Julie Stanford, Manager, Aircraft Registration Branch (AFS–750), Mike Monroney Aeronautical Center, Federal Aviation Administration, P.O. Box 25504, Oklahoma City, Oklahoma 73125. Telephone: (405) 954–3131.

SUPPLEMENTARY INFORMATION: Beginning in 1926, the records pertaining to United States registered aircraft were maintained in folders, identified by the

registration number of the aircraft, which contained either the original documents, or certified copies of such documents, submitted for recordation.

In October 1978, following a comprehensive study, it was determined that the aircraft records would be replaced by an updateable microfiche system. It was further determined that effective May 1, 1981, the microfiche would become the official aircraft record.

The updateable microfiche and the equipment required to operate and maintain that system are no longer manufactured. The microfiche system used by the Civil Aviation Registry's Aircraft Registration Branch is no longer supportable. It was determined that the microfiche should be replaced with an electronic records based system. It was further determined that those electronic records would be the official aircraft records of the Civil Aviation Registry's Aircraft Registration Branch.

Effective August 8, 2002, any person requesting a copy of a record will be provided with their choice of either a paper or digital portable document format copy of the electronic record concerning that aircraft.

Issued in Oklahoma City, OK, on August 2, 2002.

Mark D. Lash,

Manager, Civil Aviation Registry.

[FR Doc. 02–21185 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application PFC No. 02–04–U–00–A00 To Use the Revenue From a Passenger Facility Charge (PFC) at Altoona-Blair County Airport, Altoona, PA

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 use the revenue from a PFC at Altoona-Blair County 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).

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ms. Sharon Daboin/Manager Har-Ado FAA, Airports District Office, 3905 Hartzdale Dr, Suite #508, Camp Hill, PA 17011

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Charles Pillar, Airport Manager of the Blair County Airport Authority at the following address: Blair County Airport Authority, 2 Airport Drive, Martinsburg, PA 16662.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Blair County Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Sharon Daboin/Manager HAR–ADO Airports District Office, 3905 Hartzdale Drive, Suite 508, (717) 730–2830. 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 use the revenue form a PFC at Altoona-Blair County 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 1, 2002, the FAA determined that the application to use the revenue from a PFC submitted by Blair 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 28, 2002.

The following is a brief overview of the application.

PFC Application No.: PFC No. 02–04–U–00–AOO.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 2002.

Proposed charge expiration date: March 1, 2003.

Total estimated PFC revenue: $135,340.

Brief description of proposed project(s):

—Purchase of Avigation Easements and topping/removing of trees and brush penetrating runway approach surfaces, runway primary surfaces and runway OFZ's.

—Fourteen Avigation easements will be acquired totaling approximately 13 acres. These easements will be located along the right and left sides of the approach to Runway 20. See the attached easement acquisition and obstruction plans.

Class or classes of air carriers, which the public agency has requested, not be required to collect PFCs: No Class of Carriers will be excluded from collection of PFC.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Fitzgerald Federal Building #111, Airports Division, AEA–610, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Blair County Airport Authority.

Issued in HBG, PA on July 1, 2002.

Sharon Daboin,

Manager, HAR–ADO, Eastern Region.

[FR Doc. 02–21141 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement PS–ACE100–2002–002]

Policy Statement PS–ACE100–2002–002, Installation Approval of Multi-Function Displays Using the Approved Model List (AML) Supplemental Type Certification (STC) Process

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of policy statement.

SUMMARY: This notice announces the issuance of Policy Statement PS–ACE100–2002–002, Installation Approval of Multi-Function Displays Using the Approved Model List (AML) Supplemental Type Certification (STC) Process. This policy encourages use of the Approved Model List Supplemental Type Certification Process for installation approval of multi-function displays.

DATES: Policy Statement PS–ACE100–2002–002 was issued by the Manager, Small Airplane Directorate, Aircraft Certification Service, ACE–100, on July 30, 2002.

How to Obtain Copies: A paper copy of Policy Statement PS–ACE100–2002–002 may be obtained by contacting Barry Ballenger, Aerospace Engineer, FAA, Small Airplane Directorate, Standards Office, ACE–110, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4152 or by faxing your request to (816) 329–4149. The policy will also be available on the Internet at *www.faa.gov/certification/aircraft/small_airplanes_advisory.htm.*

Issued in Kansas City, Missouri, on August 7, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21178 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–13148]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ANDIAMO.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before September 19, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–13148. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832, Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested. *Name of vessel:* ANDIAMO. Owner: Andiamo, LLC.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* ''The vessel is 44 feet in length, 23 feet in breadth, and is designed to carry 8 persons in four cabins. The gross and net tonnages are 16 and 14 tons, respectively.''

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* ''The intended use of the vessel is to engage in crewed chartered operations for hire for no more than 12 passengers on the east coast of the United States from Maine to Florida, including the inland waters of the Chesapeake Bay.'' ''Also * * * Puerto Rico and Virgin Islands''

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1995. *Place of construction:* France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* ''This waiver will have negligible impact on other commercial passenger vessel operators. The crewed charter yacht business is concentrated in the U.S. and British Virgin Islands where over 300 such yachts are engaged in the charter business primarily during the winter and spring months, November to May. Few of these boats return to the continental United States during the summer months to offer their services. As a result, the demand for charter boats in the United States exceeds the available supply * * *''

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* ''This waiver will have a positive impact on U.S. shipyards. Any increase in the number of crewed charter boats operating in U.S. waters will necessarily result in more repair and refitting work for U.S. shipyards. Charter boats require substantial repairs and maintenance each year because of the harsh marine environment in which they work. * * * any increase in the charter business in U.S. continental waters will increase the need for work performed by U.S. shipyards.''

Dated: August 15, 2002.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–21159 Filed 8–19–02; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 9, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 19, 2002, to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0057.

Form Number: None.

Type of Review: Extension.

Title: Annual Letters—Certificates of Authority (A) and Admitted Reinsurer (B).

Description: Annual letters are sent to insurance companies providing surety bonds to protect the Federal Government or companies providing reinsurance (except on excess risks running to the United States).

Information provided is needed for the renewal of Treasury Certified companies and determination of underwriting limitations, and renewal of companies recognized as Admitted Reinsurers. Summary information of Treasury Certified companies is published in Circular 570, while a separate list of companies recognized as Admitted Reinsurers is generated.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 347.

Estimated Burden Hours Per Respondent: 39 hours and 45 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 13,793 hours.

Clearance Officer:Juanita Holder, Financial Management Service, 3700 East West Highway, Room 135, PGP II, Hyattsville, MD 20782.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–21054 Filed 8–19–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 12, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 19, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0184.

Form Number: IRS Form 4797.

Type of Review: Revision.

Title: Sales of Business Property.

Description: Form 4797 is used by taxpayers to report sales, exchanges, or involuntary conversion of assets, other than capital assets, and involuntary conversion of capital assets held more than one year. It is also used to compute ordinary income from recapture and the recapture of prior year section 1231 losses.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 1,396,388.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 33 hr., 28 min.
Learning about the law or the form: 7 hr., 56 min.
Preparing, copying, assembling, and sending the form to the IRS: 8 hr., 50 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 70,196,425 hours.

OMB Number: 1545–1012.

Form Number: IRS Form 5305A–SEP.

Type of Review: Extension.

Title: Salary Reduction Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

Description: Form 5305A–SEP is used by an employer to make an agreement to provide benefits to all employees under a salary reduction Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with IRS, but is to be retained in the employers' records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SEP. The data is used to verify the deduction.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 3 hr., 52 min.
Learning about the law or the form: 5 hr., 1 min.
Preparing the form: 49 min.

Estimated Total Reporting/ Recordkeeping Burden: 972,00 hours.

OMB Number: 1545–1498.

Regulation Project Number: REG–209826–96 NPRM.

Type of Review: Extension.

Title: Application of the Grantor Trust Rules to Nonexempt Employees' Trusts.

Description: The regulations provide rules for the application of the grantor trust rules to certain nonexempt employees' trusts. Taxpayers must indicate on a return that they are relying on a special rule to reduce the overfunded amount of the trust.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–21055 Filed 8–19–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 14, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before September 19, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–0120.

Form Number: IRS Form 1099–G.

Type of Review: Extension.

Title: Certain Government and Qualified State Tuition Program Payments.

Description: Form 1099–G is used by governments (primarily state and local) to report to the IRS (and notify recipients of) certain payments (*e.g.,* unemployment compensation and income tax refunds). IRS uses the information to insure that the income is being properly reported by the recipients on their returns.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 2,900.

Estimated Burden Hours Per Respondent: 11 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 11,590,000 hours.

OMB Number: 1545–0126.

Form Number: IRS Form 1120–F.

Type of Review: Revision.

Title: U.S. Income Tax Return of a Foreign Corporation.

Description: Form 1120–F is used by foreign corporations that have investments, or a business, or a branch in the U.S. The IRS uses Form 1120–F to determine if the foreign corporation has correctly reported its income, deductions, and tax, and to determine if it has paid the correct amount of tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 21,618.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—105 hr., 28 min.
Learning about the law or the form–41 hr., 9 min.
Preparing the form—68 hr., 52 min.
Copying, assembling, and sending the form to the IRS—61 hr., 58 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 4,809,573 hours.

OMB Number: 1545–1007.

Form Number: IRS Form 8606.

Type of Review: Revision.

Title: Nondeductible IRAs.

Description: Internal Revenue Code (IRC) section 408(o) requires certain information regarding nondeductible contributions to traditional IRAs (reported on Part I of Form 8606). IRC section 408A(d) requires information regarding conversions from traditional IRAs to Roth IRAs and distributions from Roth IRAs (reported on Parts II & III of Form 8606). IRC section 530 requires information regarding distributions from ED IRAs (reported on Part IV of Form 8606).

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1,800,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 4 min.
Learning about the law or the form—1 hr., 12 min.
Preparing the form—49 min.
Copying, assembling, and sending the form to the IRS—41 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 2,427,770 hours.

OMB Number: 1545–1653.

Revenue Procedure Number: Revenue Procedure 99–26.

Type of Review: Extension.

Title: Secured Employee Benefits Settlement Initiative.

Description: This revenue procedure provides taxpayers options to settle cases in which they accelerated deductions for accrued employee benefits secured by a letter of credit, bond, or other similar financial instrument.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper: 20 hours.

Frequency of Response: Other (one-time).

Estimated Total Reporting/ Recordkeeping Burden: 2,000 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 02–21164 Filed 8–19–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 14, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 19, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–1411.

Form Number: IRS Forms 8843.

Type of Review: Extension.

Title: Statement for Exempt Individuals and Individuals With a Medical Condition.

Description: Form 8843 is used by an alien individual to explain the basis of the individual's claim that he or she is able to exclude days of presence in the U.S. because the individual is a teacher/ trainee or student; professional athlete; or has a medical condition or problem.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 150,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

[In minutes]

	Form 8843 parts I & II	Form 8843 parts I & III	Form 8843 parts I & IV	Form 8843 parts I & V
Recordkeeping	13	13	13	13
Learning about the law or the form	7	6	6	6
Preparing the form	30	33	25	29
Copying, assembling, and sending the form to the IRS	16	16	16	16

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 174,345 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 02–21165 Filed 8–19–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Certificates of Label Approval (COLAs) Online Access Request.

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Stewart, Program Manager, E Government, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8193.

SUPPLEMENTARY INFORMATION:

Title: COLAs Online Access Request.

Form Number: ATF F 5013.2.

Abstract: The information on this form will be used by ATF to authenticate end users in the system to electronically file Certificates of Label Approval (COLAs). The system will authenticate end users by comparing information submitted on the form to records held in multiple, independently sourced databases, such as consumer credit, postal address and credit card databases. By checking multiple sources, often with an overlapping scope of coverage, the verification engine will facilitate the authentication process and reduce the possibility of fraud. After verifying the applicant user is who they claim to be, a password will be issued to allow the user to access the system.

Current Actions: This is a new information collection.

Type of Review: New.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Total Annual Burden Hours: 300.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20875 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Evaluation of Training, Arson For Prosecutors Training Program (Follow-up Survey).

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Joanne Bailey, Learning Systems Management Division, 800 K Street, NW., Suite 600, Washington, DC 20001, (202) 927–3086.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of Training, Arson For Prosecutors Training Program (Follow-up Survey).

Abstract: ATF is conducting training evaluation to determine the effectiveness and value of its training programs. The information collected on the survey will provide ATF with data on how the training participants have transferred the knowledge and skills learned to their jobs. This data will help ATF determine whether the training program is consistently meeting objectives and impacting the performance of the individuals in their work place.

Current Actions: New information collection.

Type of Review: New.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 125.

Estimated Total Annual Burden Hours: 63.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20876 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Change of Bond (Consent of Surety).

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Wood, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8185.

SUPPLEMENTARY INFORMATION: *Title:* Change of Bond (Consent of Surety).

OMB Number: 1512–0078.

Form Number: ATF F 5000.18.

Abstract: A Change of Bond (Consent of Surety) is executed by both the bonding company and a proprietor and acts as a binding legal agreement between the two parties to extend the terms of a bond. A bond is necessary to cover specific liabilities on the revenue produced from untaxpaid commodities.

Current Actions: This information collection has been revised. Extension of Coverage of Bond, ATF F 2105 (5000.7) has been removed from 1512–0534 and has been combined with ATF F 1533 (5000.18), Consent of Surety. The new form will be identified as Change of Bond (Consent of Surety), ATF F 5000.18. The form has been revised in the plain language format. The Change of Bond (Consent of Surety) is filed with ATF and a copy is retained by ATF as long as it remains current and in force.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,000.

Estimated Total Annual Burden Hours: 2,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20877 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Taxable Articles Without Payment of Tax.

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION: *Title:* Taxable Articles Without Payment of Tax.

OMB Number: 1512–0119.

Form Number: ATF F 5200.14.

Abstract: ATF collects the information on ATF F 5200.14 to ensure that ATF protects the revenue and promotes compliance with laws and regulations. ATF gathers information about the specific activities listed on ATF F 5200.14 to monitor taxable articles. Also, ATF examines and verifies entries so that unusual activities, errors and omissions may be identified and follow-up action may be taken to protect the Government's revenue.

Current Actions: ATF F 5200.14 has been revised. The title of the form has been changed from Notice of Removal of Tobacco Products, Cigarette Papers or Cigarette Tubes to Taxable Articles Without Payment of Tax. The revised form will increase the accuracy of submissions by persons who make entries on the form. Follow-up contact will reduce among manufacturers, proprietors of export warehouses or customs manufacturing warehouses, other individuals and ATF due to additional instructions. The form has been revised to the plain language format.

Type of Review: Revision.

Affected Public: Business or other for-profit, individuals or households, Federal Government.

Estimated Number of Respondents: 272.

Estimated Total Annual Burden Hours: 15,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20878 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Drawback on Distilled Spirits Exported.

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Wood, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8185.

SUPPLEMENTARY INFORMATION:

Title: Drawback on Distilled Spirits Exported.

OMB Number: 1512–0199.

Form Number: ATF F 5110.30.

Abstract: The information collected on ATF F 5110.30 provides a uniform format for determining that taxes have already been paid. The form details specific operations and accounts for taxable commodities. Tax liability is established to prevent jeopardy to the revenue derived from distilled spirits. ATF examines and verifies entries so as to identify unusual activities, errors or omissions.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Total Annual Burden Hours: 10,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20879 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application and Permit Under 26 U.S.C. 5181—Alcohol Fuel Producer.

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Application and Permit Under 26 U.S.C. 5181—Alcohol Fuel Producer.

OMB Number: 1512–0214.

Form Number: ATF F 5110.74.

Abstract: This form is used by persons who wish to produce alcohol for fuel use and describes the person(s) applying for the permit, location of the proposed operation, type of material used for production, and the amount of spirits to be produced.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 734.

Estimated Total Annual Burden Hours: 1,321.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20880 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars or Cigarettes.

DATES: Written comments should be received on or before October 21, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dave Royalty, Chief, Revenue Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8200.

SUPPLEMENTARY INFORMATION:

Title: Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars or Cigarettes.

OMB Number: 1512–0156.

Form Number: ATF F 2987.

Abstract: ATF F 2987 is used to calculate the tax due on cigars and cigarettes manufactured in Puerto Rico and shipped to the U.S. The form identifies the tax payer, cigars or cigarettes by tax class and certification by a U.S. Customs official as to the amount of shipment, and that the shipment has been released to the U.S.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 30.

Estimated Total Annual Burden Hours: 150.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 8, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–20887 Filed 8–19–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Revocation of Customs Broker License

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.45(a)), the following Customs broker license is revoked by operation of law.

Name	License No.	Port name
A.S.I. Customs Brokers, Inc.	21025	New York
Speed Cargo Service, Inc.	20829	Miami

Dated: August 12, 2002.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–21115 Filed 8–19–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Cancellation of Customs Broker Permit

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker local permits are canceled without prejudice.

Name	Permit No.	Port name
Arthur Andersen LLP.	94–037	Los Angeles
Murphy International Corp.	153	Seattle
James P. Cesped	04581–P	San Francisco

Dated: August 12, 2002.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–21114 Filed 8–19–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Cancellation of Customs Broker License

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses and any and all associated local and national permits are canceled without prejudice.

Name	License No.	Port name
Arthur J. Humphries, Inc.	04197	Seattle
Inter-Cargo SWF ..	17455	Tampa
Liberty International, Inc.	07491	Boston

Name	License No.	Port name
Stone & Downer Company.	00161	Boston
Border Brokerage Company, Inc.	03389	Seattle
Unitrans International Corporation.	06728	San Francisco

Liberty International, Inc. and Unitrans International Corporation continue to hold valid Customs broker licenses issued through other broker districts.

Dated: August 12, 2002.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–21112 Filed 8–19–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Cancellation of Customs Broker License Due to Death of the License Holder

AGENCY: Customs Service, Department of the Treasury.

ACTION: Cancellation of license.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following individual Customs broker license has been cancelled due to death of the broker:

Name	License No.	Port name
Charlotte Patricia Gromberg.	13180	Los Angeles
Margaret M. Goldy	10467	Philadelphia

Dated: August 12, 2002.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–21113 Filed 8–19–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 10001

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 10001, Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Revenue Procedure 96–41.

DATES: Written comments should be received on or before October 21, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (Carol.a.Savage@irs.gov.), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Revenue Procedure 96–41.

OMB Number: 1545–1492.

Form Number: Form 10001 is used in conjunction with a closing agreement program involving certain issuers of tax exempt advance refunding bonds. Revenue Procedure 96–41 established this voluntary compliance program and prescribed the filing of Form 10001 to request a closing agreement.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 14, 2002.

Carol Savage,

Program Analyst.

[FR Doc. 02–21206 Filed 8–19–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–6: OTS Nos. H–3027 and 02449]

Citizens South Banking Corporation, Gastonia, NC; Approval of Conversion Application

Notice is hereby given that on August 14, 2002, the Director, Examination Policy, Office of Thrift Supervision (''OTS''), or her designee, acting pursuant to delegated authority, approved the application of Citizens South Bank, Gastonia, North Carolina, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS Southeast Regional Office, 1475 Peachtree Street, NE., Atlanta, GA 30309.

Dated: August 15, 2002.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 02–21162 Filed 8–19–02; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–7: OTS Nos. H–3867 and 03309]

TierOne Corporation, Lincoln, NE; Approval of Conversion Application

Notice is hereby given that on August 9, 2002, the Director, Examination Policy, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of TierOne Bank, Lincoln, Nebraska, to convert from the mutual to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, OTS, 1700 G Street, NW., Washington, DC 20552, and the OTS Midwest Regional Office, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326.

Dated: August 15, 2002.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 02–21163 Filed 8–19–02; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Management (OM), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 19, 2002. *For Further Information or a Copy of the Submission Contact*: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900-New.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900-New'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Donations to National Veterans Museum (Via Credit Card), VA Form 5579a. *OMB Control Number*: 2900-New. *Type of Review*: New Collection. *Abstract*: VA Form 5579a will be used to accept donations via credit cards from individuals and corporations who wish to make a contribution to VA's National Veterans Museum. The Museum will tell the story of VA's link to American history. A range of interactive exhibits will introduce visitors to the services provided by VA and its precursors including the: (1) Benefits programs; (2) health care services and medical research; and (3) National Cemeteries. The Museum will include state-of-art theatrical presentations, a Connection Center where visitors can use multimedia computer terminals with Internet access, and interactive audio-visual exhibits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 3, 2002, at page 38319–38320. *Affected Public*: Individuals or households and business or other for profit. *Estimated Annual Burden*: 83 hours. *Estimated Average Burden Per Respondent*: 1 minute. *Frequency of Response*: One-time. *Estimated Number of Respondents*: 5,000.

Dated: August 8, 2002.

By direction of the Secretary.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–21119 Filed 8–19–02; 8:45 am]

BILLING CODE 8320–01–U

Corrections

Federal Register

Vol. 67, No. 161

Tuesday, August 20, 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 THE TREASURY

Customs Service

Wool Manufacturer Payment Clarification and Technical Corrections Act

Correction

In notice document 02–20478 beginning on page 52520 in the issue of Monday, August 12, 2002 make the following correction:

On page 52520, in the third column, in the second full paragraph, in the 15th line, after ''their'' delete ''4''.

[FR Doc. C2–20478 Filed 8–19–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 02–40]

RIN 1515–AD04

Access to Customs Security Areas at Airports

Correction

In the issue of Friday, August 9, 2002, on page 51928, in the third column, in the correction of rule document 02-19055, in § 122.187, in amendatory instruction 5., in the fourth line, ''may choose'' should read ''he may choose''.

[FR Doc. C2–19055 Filed 8–19–02; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF MANAGEMENT AND BUDGET

Standard Data Elements for Electronically Posting Synopses of Federal Agencies' Financial Assistance Program Announcements at FedBizOpps

Correction

In notice document 02–20261 beginning on page 52554 in the issue of Monday, August 12, 2002, make the following correction:

On page 52557, at the top of the page, the table is corrected in part to read as follows:

Data element	Description	Required?
How to get full announcement	Hypertext stating where to get the full announcement. If it is available on the Internet, this field should include the descriptor that precedes the URL for the full announcement (e.g., ''Click on the following link to see the full text of the announcement for this funding opportunity:'').	Required.
Electronic link to full announcement	The URL for the full announcement, if it is on the Internet.	Optional.
Eligible applicants	Designed to help potential applicants narrow their searches to programs where they are most likely to be eligible (although they still must read the full announcement for details because eligibility may be further limited to certain subsets of applicants within the categories below).. 99 = Unrestricted (i.e., open to any type of entity below)	Required to either select ''99'' for unrestricted or select all others that apply.

[FR Doc. C2–20261 Filed 8–19–02; 8:45 am]

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Federal Register

Tuesday,
August 20, 2002

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Newcomb's Snail; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH95

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Newcomb's Snail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Newcomb's snail *(Erinna newcombi)* pursuant to the Endangered Species Act of 1973, as amended (Act). The designated critical habitat consists of eight stream segments and associated tributaries, springs and seeps, and adjacent riparian areas on the island of Kauai, Hawaii, totaling 19.76 kilometers (12.28 miles) of stream channel and 1,812 hectares (4,479 acres).

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. All areas designated as critical habitat for the Newcomb's snail contain the primary constituent elements (habitat components) essential for the conservation of the species. This final rule takes into consideration the potential economic and other effects of designating critical habitat for the Newcomb's snail.

We solicited data and comments from the public on all aspects of the proposed rule and draft economic analysis. We revised the proposal and the draft economic analysis to incorporate or address new information received from public comments on the proposed critical habitat designation and the draft economic analysis on the proposed designation and new scientific and commercial information made available since the proposal was published.

DATES: This rule is effective September 19, 2002.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection, by appointment, during normal business hours at the Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Fish and Wildlife Office, at the above address (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian archipelago consists of eight main islands and the numerous shoals and atolls of the northwestern Hawaiian Islands. The islands were formed sequentially by basaltic lava that emerged from the earth's crust located near the current southeastern coast of the island of Hawaii (Stearns 1985). Ongoing erosion has formed steep-walled valleys with well-developed soils and stream systems throughout the chain. Kauai, geologically the oldest and most northwesterly of the eight main islands, is characterized by deep valleys, high rainfall, abundant vegetation, and numerous streams and springs.

The island of Kauai is 1,430 square kilometers (km^2) (552 square miles (mi^2)) in size, the fourth largest of the main Hawaiian islands. Most of the land mass of Kauai was formed between 5.6 and 3.6 million years ago from one or more large shield volcanoes. More recent, secondary eruptions occurred over the eastern portion of the island as recently as the Pleistocene epoch, approximately 0.6 million years ago. Due to the age and climate of the island, Kauai is heavily eroded, with numerous steep, water-carved valleys and gulches.

The prevailing northeasterly trade winds are typically laden with moisture in the central Pacific latitudes where Kauai is located. Substantial precipitation is brought to the windward and interior portions of the island as a result of uplift and cooling of the warm, moist surface airmass as it flows over the steep topography of the island. The high-elevation areas in the vicinity of the Alakai Plateau such as Mt. Waialeale (1,600 meters (m), 5,248 feet (ft)), are among the rainiest places on earth, receiving an average of 11.3 m (444 inches (in)) of precipitation annually (Juvik and Juvik 1998). This large volume of rainwater flows to perennial and intermittent streams and wetlands, and infiltrates into the island's aquifers. The west and southwest coastal areas of the island lie in the rain shadow of the Alakai Plateau and interior uplands, and these areas receive considerably less rain.

Kauai has at least 61 streams that are considered perennial, and a similarly large number of intermittent streams (Hawaii Stream Assessment (HSA)1990). The Hanalei River, for example, is 27 km (17 mi) in length and is the largest stream system in the State by volume, with a long-term mean discharge of 216 cubic feet per second (cfs) (6.12 cubic meters per second (cms), 34-year average calculated from 1964 to 1997). The headwaters of the Hanalei River are near the summit of Mt. Waialeale and the river flows towards Hanalei Bay on the island's north shore. The basalts that form the bulk of the main Hawaiian islands are porous and permeable, which facilitates infiltration and storage of ground water. A lens-shaped body of ground water (the basal lens) exists within these porous basalts at lower elevations. In some areas, the basal lens is partially confined by lower-permeability coastal alluvial and calcareous deposits (''caprock''). Recent ground water investigations in the southern Lihue basin indicate that permeabilities of both the basalt and the younger rock from secondary eruptions are low, which allows the basal ground water lens to thicken and thereby reach greater elevations than on the other Hawaiian islands (Izuka and Gingerich 1998). This causes basal ground water to enter and support stream and spring flow up to relatively high elevations. Because the basal lens ground water reserve is very large in size, streams, springs, and rock seeps (rheocrenes) fed by basal ground water exhibit highly permanent, stable flows. In addition to the basal lens, smaller, perched ground water systems form at higher elevations above dense geologic features of low permeability such as those formed by layers of ash. Ground water bodies may also form within higher elevation geologic formations as a result of confinement by dikes, which are vertical sheets of low-permeability rock that cut through more permeable basalt in some places. Ground water bodies that form behind these perched and dike-confined aquifers contribute water to streams and springs at higher elevations, although these aquifers are smaller in volume than basal systems and their contribution to surface water would be expected to be reduced during prolonged drought (MacDonald *et al.* 1960).

Human-caused modifications to surface and ground water systems on Kauai and throughout Hawaii have profoundly altered natural hydrologic regimes. Plantation irrigation systems, built to support the cultivation of sugar cane over a century ago, transfer large volumes of water out of natural watercourses and into extensive systems of ditches, tunnels, flumes, reservoirs, and ultimately to fields. Historically, stream water diversion structures were typically built to be highly efficient in their ability to entrain water. These

dams usually divert all flowing stream water at moderate to low flows, leaving the stream channel below the dam dry. At least one-third of all Kauai's streams are significantly dewatered for agricultural and industrial water supplies (HSA 1990); in 1994, a total of 224.17 million gallons per day (mgd) was used island-wide for irrigation, and 93.72 mgd was used for generation of hydroelectric power (Wilcox 1996).

Four species of Lymnaeidae snails are native to Hawaii (Morrison 1968, Hubendick 1952). Three of these species are found on two or more of the eight main islands. The fourth species, Newcomb's snail, is restricted to the island of Kauai. Newcomb's snail is unique among the Hawaiian lymnaeids in that the shell spire typically associated with lymnaeids has been substantially reduced. The result is a smooth, black shell formed by a single, oval whorl, 6 millimeters (mm) (0.25 in) long and 3 mm (0.12 in) wide. A similar shell shape is found in a Japanese lymnaeid (Burch 1968), but Burch's study of chromosome number shows that Newcomb's snail has evolutionary ties to the rest of the Hawaiian lymnaeids, all of which are derived from North American ancestors (Patterson and Burch 1978). This parallel evolution of similar shell morphology in Japan and Hawaii from two distinct lineages of lymnaeid snails is of particular scientific interest.

At the present time, there is no generally accepted nomenclature for the genera of Hawaiian lymnaeids, although each of these snail species, including Newcomb's snail, is recognized as a well-defined species. Newcomb's snail was originally described as *Erinna newcombi* in 1855 by H. & A. Adams (see Hubendick 1952). Hubendick (1952) did not feel that the distinctive shell form (described above) and reduced structures of the nervous system of Newcomb's snail warranted a monotypic genus. In fact, Hubendick included all Hawaiian lymnaeids in the genus Lymnaea. Morrison (1968) contradicted Hubendick, and argued that the distinctive shell characters of Newcomb's snail supported the generic name *Erinna*. Burch (1968), Patterson and Burch (1978), Taylor (1988), and Cowie *et al.* (1995) all followed Morrison and referred to Newcomb's snail as *Erinna newcombi*. This is the currently accepted scientific name for Newcomb's snail.

The Newcomb's snail is restricted to freshwater. While the details of its ecology are not well known, Newcomb's snail probably has a life history similar to other members of the family. These snails generally feed on algae and vegetation growing on submerged rocks. Eggs are attached to submerged rocks or vegetation and there are no widely dispersing larval stages; the entire life cycle is tied to the stream system in which the adults live (Baker 1911). Very little is known about the biological or environmental factors that affect population size in Newcomb's snails. Important factors may include annual, multi-year or decadal changes in streams flows, severe-weather high-flow channel-scouring events, or periods of severe or prolonged drought. Dispersal of the snails in both upstream and downstream directions within a stream system probably plays an important function in gene flow and in colonizing or recolonizing suitable habitat, especially microhabitat that is protected from channel scour. Dispersal of the Newcomb's snail between stream systems is likely very infrequent due to their freshwater habitat requirements, and historic dispersal probably relied on long-term erosional events that captured adjacent stream systems. It should be noted that this life history differs greatly from the freshwater Hawaiian neritid snails (*Neritina* spp.), which have marine larvae that colonize streams following a period of oceanic dispersal (Kinzie 1990). It is likely that larvae of these neritid snails can disperse across the oceanic expanses that separate the Hawaiian Islands and colonize streams on any or all of these islands. This dispersal capacity is not available to the Newcomb's snail.

Based on past and recent field observations, the specific habitat requirements of the Newcomb's snail include fast-flowing perennial streams and associated springs, seeps, and vertical-to-overhanging waterfalls (Stephen Miller, U.S. Fish and Wildlife Service *in litt.* 1994a, 1994b; Polhemus *et al.* 1992; Burch 1968; and Hubendick 1952). Surveys of main stream channels of many of the perennial streams of Kauai indicate that the Newcomb's snail is found only in protected areas within main stream channels (Michael Kido, University of Hawaii, *in litt.* 1994). The limited occurrence of this snail in main stream channels is likely due to periodic channel scouring by sediment, rocks, and boulders that are moved downstream during runoff events due to the frequent heavy rains. Consequently, suitable habitat is generally associated with overhanging waterfalls located in the main channel of perennial streams supported by stable ground water input, or with small, spring-fed tributaries. Another common element among the sites harboring snail populations is that the water source appears to be consistent and permanent, even during severe drought.

Five populations of Newcomb's snail were identified and documented in museum records and other literature prior to 1925. These include populations from sites located in Waipahee Stream (a tributary to Kealia Stream), Wainiha River, Hanakapiai Stream, Hanakoa Stream, and Kalalau Stream. Other records that are older and not as well-substantiated in museum collections or other literature include populations in Limahuli Stream and Hanapepe Stream.

At least two of these populations (in Hanakapiai Stream and Hanakoa Stream) are now thought to be extirpated. A population in the Wainiha River was apparently located in about 1987 but has not been revisited since it was found, and its status is unkown (R. Kinzie, pers. comm 2002, *in litt.* 2002). Of the two remaining pre-1925 populations, one (Waipahee Stream) is small and the other (Kalalau Stream) is relatively large (*see* below). Since about 1993, surveys of approximately 50 sites located along numerous streams and their associated tributaries and springs on Kauai have located four previously unknown populations of Newcomb's snail (M. Kido, *in litt.* 1994). The current known range of Newcomb's snail is limited to very small sites located within six stream systems in north- and east-facing drainages on Kauai. They are: Kalalau Stream; Lumahai River; Hanalei River (four subpopulations); Waipahee Stream (a tributary to Kealia Stream); two subpopulations in Makaleha Stream (a tributary to Kapaa Stream); and the North Fork Wailua River (two subpopulations). A few individual snails have been observed in Lumahuli Stream (M. Kido, pers. comm., 2001), but if a viable population occurs there, it has not been located.

No historic information is available on the population size of the Newcomb's snail. However, recent reports indicate that two of the six known populations of the Newcomb's snail are relatively large: the Kalalau Stream and Lumahai River populations. The Kalalau Stream population is found in the northeastern fork of Kalalau Stream on two permanent waterfalls and in the stream reach between the waterfalls. The high density of individuals in this population may be indicative of an undisturbed natural condition. The estimated maximum density at the base of the upper waterfall, including the area behind the falling water, is approximately 800 snails/square meter (m^2) (75 snails/square foot (ft^2)) (S. Miller, *in litt.* 1994b). The total area occupied by these

snails could not be accurately evaluated due to the extreme vertical orientation of the waterfall. Habitat used by these snails may be limited to the lower section of the waterfall that receives a high amount of spray from the falling water. Little information on specific size or area is currently available for the population of the Newcomb's snail from the Lumahai River, although this population has been reported to be large (M. Kido, *in litt.* 1995).

The population in Makaleha Stream is divided into two subpopulations. The subpopulation at the waterfall that forms the head of the main channel of Makaleha Stream is estimated at 30 snails/m^2 (2 to 3 snails/ft^2) distributed over 2 to 3 m^2 (21 to 32 ft^2) (M. Kido, *in litt.* 1994; M. Kido, *in litt.* 1995). This is considerably smaller than the population in Kalalau Stream described above. The reasons for differences in these two populations are not known with certainty, but may be due to the presence or absence of non-native predators and biocontrol agents that feed on lymnaeid snails. The subpopulation that occupies Makaleha Springs (which forms a series of very small tributaries to Makaleha Stream) covers approximately 20 to 30 m^2 (212 to 318 ft^2) (S. Miller, *in litt.* 1994a). Snail densities at this site are difficult to estimate but may be as high as 20 to 30 snails/m^2 (1 to 3 snails/ft^2) (S. Miller, *in litt.* 1994a).

The sizes of three other populations of Newcomb's snail have been characterized as small. The population in the Waipahee tributary of Kealia Stream is estimated to cover 5 to 10 m^2 (53 to 106 ft^2) with a density of approximately 50 to 80 snails/m^2 (4 to 8 snails/ft^2) (Adam Asquith, U.S. Fish and Wildlife Service, *in litt.* 1994a). The population of Newcomb's snail in the Hanalei River is divided into four subpopulations in the upper reach of this river (M. Kido, *in litt.* 1994, 1995). One subpopulation has approximately 10 to 20 snails/m^2 (1 to 2 snails/ft^2) and occupies 2 to 3 m^2 (21 to 32 ft^2) (M. Kido, *in litt.* 1994). A second subpopulation supports approximately 25 snails. The two remaining subpopulations in the Hanalei River are reported to be small with very few snails (M. Kido, *in litt.* 1995). The population found in the North Fork of the Wailua River just upstream of a concrete agricultural water diversion intake, appears to vary over time but was made up of just a few scattered individuals during surveys in 1996 (A. Asquith, *in litt.* 1995). A second, larger subpopulation is reported from the Kawaikini waterfall area in the headwaters of the North Fork Wailua River, but no estimates were made of its population size (M. Kido, *in litt.* 2002).

Based on these data, we estimate that the six known populations of Newcomb's snail have a total of approximately 6,000 to 7,000 individuals. The great majority of these snails, perhaps over 90 percent, are located in the populations found in Kalalau Stream and the Lumahai River.

Previous Federal Action

The February 28, 1996, **Federal Register** Notice of Review of Plant and Animal Taxa That Are Candidates for Listing as Endangered or Threatened Species (61 FR 7596) included Newcomb's snail as a candidate species. Candidates are those species for which we have on file sufficient information on biological vulnerability and threats to support issuance of a proposed rule to list, but issuance of the proposed rule is precluded by other higher priority listing actions. We published a proposed rule on July 21, 1997 (62 FR 38953), to list this species as threatened. On January 26, 2000 (65 FR 4162), we published a final rule determining Newcomb's snail to be a threatened species.

In the final listing rule we determined that designation of critical habitat for the Newcomb's snail would be prudent because such a designation could benefit the species beyond listing as threatened by extending protection under section 7 of the Act to currently unoccupied habitat and by providing informational and educational benefits. Despite the prudency determination, we also indicated that we were not able to develop a proposed critical habitat designation for the Newcomb's snail at that time due to budgetary and workload constraints. However, on June 2, 2000, the U.S. Fish and Wildlife Service was ordered by U.S. District Court in *Center for Biological Diversity* v. *Babbitt*, Civil No. 99–00603 (D. Haw.), to publish the critical habitat designation for Newcomb's snail by February 1, 2002. The plaintiffs and the Service have entered into a consent decree extending this deadline to August 10, 2002. This rule responds to the court's order.

On March 5, 2001, we mailed letters to 104 potentially interested parties informing them that the Service was in the process of designating critical habitat for the Newcomb's snail and requesting from them information concerning the range of the Newcomb's snail, observational life history accounts, current threats, and management activities on lands where Newcomb's snail currently occurs or occurred in the past. The letters contained a fact sheet describing the Newcomb's snail and included a map depicting the current range of the Newcomb's snail. Recipients of these letters included land owners and managers that own and manage land at the two sites where Newcomb's snails are found on private lands, and the various State agencies responsible for managing State of Hawaii lands and water resources at the other locations where the Newcomb's snail is known to occur. We received seven responses to our written request for information: four from various State agencies within the Hawaii Department of Land and Natural Resources (State Historic Preservation Office, Commission on Water Resource Management, Land Division, and the Office of the Chairperson of the Board of Land and Natural Resources), one from the Office of Hawaiian Affairs, one from the Office of the Mayor of Kauai County, and one from a museum-affiliated researcher. The information provided in the responses was considered and incorporated into the process of identifying critical habitat. On March 15, 2001, a public informational meeting was held on Kauai to provide an opportunity for the general public, non-governmental organizations, and representatives from government agencies to meet with Service personnel and discuss the critical habitat designation process. Approximately ten people attended this meeting.

We published a proposed rule to designate critical habitat in the **Federal Register** on January 28, 2002 (67 FR 3849). The public comment period was originally scheduled to end on March 29, 2002. However, on March 29, 2002, we published a combined Notice of Availability for the Draft Economic Analysis and a notification for public hearing (67 FR 15159). This action extended the public comment period to April 29, 2002. The issues raised in the comments received on the proposed rule and our responses are presented later in this document.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the

conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of regulatory protection to lands designated as critical habitat. Further, consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus.

However, critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified to help to avoid accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat or its physical or biological features must be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide at least one of the physical or biological features essential to the conservation of the species. These are also known as primary constituent elements, as defined at 50 CFR 424.12(b). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.''

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments and other unpublished materials.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of the designation. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 prohibitions, as determined on the basis of the best available information at the time of the action. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, Habitat Conservation Plans (HCP), or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods and Criteria Used To Identify Critical Habitat

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of the Newcomb's snail. This information included: peer-reviewed scientific publications (Hubendick 1952, Morrison 1968, Patterson and Burch 1978, and Cowie *et al.* 1995); unpublished reports, field notes and correspondence by Service personnel, State agency biologists, and university researchers (M. Kido, *in litt.* 1994, 1995; S. Miller *in litt.* 1994a, 1994b; A. Asquith, *in litt.* 1994, 1995; Donald Heacock, Hawaii Department of Land and Natural Resources Division of Aquatic Resources, *in litt.* 1994; D. Heacock, pers. comm., 2002); information solicited by the Service from Federal, State, and private land managers and land owners prior to development of the draft critical habitat proposal; and comments and testimony obtained after publication of the proposed critical habitat designation for the Newcomb's snail.

Most of the currently occupied Newcomb's snail sites are located in close proximity to one another. For example, the Hanalei river population is located just 3.2 km (2.0 mi) from the North Fork Wailua River population, and the Makaleha Springs population is just 2.5 km (1.6 mi) from the Waipahee Stream population. The exception is the population found in Kalalau Stream, which is located 11.8 km (7.3 mi) from the Lumahai River population, its nearest neighbor. Despite the relatively short straight-line distances between snail populations, the steep, rugged terrain and circular shape of the island creates local topography that allow the sites to be exposed to severe weather and other natural phenomena from markedly different directions. For example, the Hanalei River valley is aligned in a south-to-north direction, while the North Fork Wailua River valley extends from north-to-south. The two Newcomb's snail populations in these drainages are separated by a distance of a few kilometers, however the extremely steep ridgelines between

them are over 900 m (2,953 ft) in elevation. Because the terrain where Newcomb's snails are found is remote and rugged, three of the six known populations (located in Kalalau Stream, Lumahai River, and Waipahee Stream) have not been censused since their initial discovery or rediscovery. Growth rates, life span, reproductive potential, age at first reproduction, dietary needs, and microhabitat preferences are not known. As noted above, accurate population estimates and the natural variability of populations over time are also not available. We are in the process of developing a draft recovery plan for this species, and we anticipate the draft being available for public review and comment by the fall of 2002.

Because of the topography of the island and the prevalent weather patterns, torrential rains that may cause flooding, channel scour, and landslides are usually restricted to one or two quadrants of the island during any single storm event. Recent examples of such recurring natural phenomena include Hurricane Iniki (a category 4 hurricane which devastated the northwest and northern portions of Kauai on September 11, 1992), Hurricane Iwa (November 23, 1982), and the huge upper Olokele Valley landslide of October 31, 1981 (Fitzsimons *et al.* 1993, Jones *et al.* 1984). Each of these events markedly degraded or possibly eliminated large areas of potential Newcomb's snail habitat which had never been surveyed to locate snail populations. In the other extreme, serious drought is a regularly recurring natural phenomenon in the central Pacific (Giambelluca *et al.* 1991). These physical conditions indicate that recovery through protection of the existing populations, plus reestablishment of populations in suitable areas of historical range that provide a wide geographical separation, is necessary for the ensured survival of the species. We therefore find that inclusion of two currently unoccupied areas identified as containing the primary constituent elements is essential to the conservation of the Newcomb's snail. These two sites are located in the northwest quadrant of the island, in drainages between the Lumahai River and Kalalau Stream populations. These two locations are identified as priority recovery units for translocation efforts in the draft Newcomb's snail Recovery Plan currently under preparation by the Service.

Recovery will require restoration of Newcomb's snails to areas of historically occupied habitat either through natural dispersal or translocation. Mere stabilization of Newcomb's snail populations within its currently occupied habitat will not provide long-term conservation for the species. The sub-units currently occupied by known Newcomb's snail populations are not sufficiently dispersed to consider the species safe from extinction. Existing known populations are found in remarkably small areas of only a few square meters of aquatic habitat, each of which is at risk from even a small, localized landslide or high flow event. Recovery actions are likely to include: maintaining existing populations through regulatory mechanisms that protect water resources, watershed protection and stabilization efforts; control of non-native predators; and translocation of snails for the purpose of reestablishing additional self-sustaining populations in the wild. Recovery will require persistence of populations of snails that are geographically separated in natural habitats to reduce the threat of total elimination of entire populations through catastrophic events such as hurricanes, landslides, drought, and predator invasions.

We used several criteria to identify and select sub-units for designation as critical habitat: (1) We began with all locations that are currently confirmed occupied by Newcomb's snail; (2) we then added two locations where Newcomb's snail was found historically but is now thought to be extirpated in the northwest extent of its range. In deciding which unoccupied areas to designate as critical habitat, we gave preference to sites that: (a) Were well documented in museum and other historical records, (b) were most recently known to be occupied, and (c) provided the greatest geographic diversity to the array of locations under consideration for critical habitat. These two sites are on lands that are publicly owned (Na Pali Coast State Park and Hono O Na Pali Natural Area Reserve). These areas are in the northwest quadrant of the island and would presumably be most exposed to severe weather events such as hurricanes from the north and northwest. With the exception of the Kalalau Stream population, all other populations of Newcomb's snails are located in the northeast or southeast quadrants of the island, and these sites would be exposed to severe weather events such as hurricanes primarily from the northeast and east.

Within the critical habitat unit boundaries, only waterbodies containing the primary constituent elements are designated as critical habitat. Existing features and structures within the boundaries of the mapped units, such as dams, ditches, tunnels, flumes, and other human-made features that do not contain the primary constituent elements, are not included as critical habitat. Federal actions limited to those areas, therefore, would not trigger a section 7 consultation unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12 in determining which areas to designate as critical habitat, we are required to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such features are termed primary constituent elements, and include but are not limited to: space for individual and population growth and for normal behavior; food, water, air, light, minerals and other nutritional or physiological requirements; cover or shelter; space for breeding and reproduction; and habitats that are protected from disturbance and are representative of the historic geographical and ecological distributions of the species.

The primary constituent elements for the Newcomb's snail are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal. These primary constituent elements are found in locations that, as a result of their geologic and hydrologic setting in the landscape, support permanently flowing streams, springs and seeps in mid-elevation locations in valleys on the island of Kauai. The primary constituent elements are: cool, clean, moderate- to fast-flowing water in streams, springs and seeps; their adjacent riparian areas and hydrogeologic features that capture and direct water flow to these spring and stream systems; a perennial flow of water throughout even the most severe drought conditions; and stream channel morphology that provides protection from channel scour by having overhanging waterfalls, protected tributaries, or similar areas. All designated critical habitat areas contain the primary constituent elements for the Newcomb's snail.

Critical Habitat Designation

Three critical habitat units are established with eight stream sub-units within those units. Unit I, entitled the Na Pali Coast Streams, consists of sub-

units identified in Kalalau Stream, Hanakoa Stream, and Hanakapiai Stream. Unit II, entitled the Central Rivers, consists of sub-units identified in Lumahai River and Hanalei River. Unit III, entitled the Eastside Mountain Streams, consists of subunits identified in Waipahee Stream, Makaleha Stream, and North Fork Wailua River. These three units are made up of stream complexes that share similar characteristics (Table 1). Each stream complex shares common topography, watershed characteristics, snail population characteristics, and exposure to natural disasters.

The final designation was reduced from that originally proposed. The proposed designation of critical habitat included nine stream sub-units and 26.29 km (16.35 mi) of stream channel and a total acreage of 2,109 ha (5,212 ac), the final rule includes eight stream sub-units and 19.76 km (12.28 mi) of stream channel and a total acreage of 1,812 ha (4,479 ac). The rationale for altering the final designation from that proposed is discussed in detail below.

Sub-units designated as critical habitat provide the full range of primary constituent elements needed by the Newcomb's snail, including foraging, sheltering, reproduction, and dispersal. Critical habitat is limited to areas that contain primary constituent elements. Critical habitat boundaries were derived using topographical characteristics of the valley and include segments of perennial streams where Newcomb's snails occur or occurred historically, their tributaries, associated springs, and seeps. The upper and lower elevations of critical habitat boundaries were chosen based upon the elevational distribution from each recorded population, or from nearby watersheds where Newcomb's snails are found or were found historically. In addition to segments of perennial streams, their tributaries, and associated springs, and the area of upland riparian habitat where these occur and are necessary to maintain watershed integrity, is included in the designation of critical habitat. The riparian areas are included in this critical habitat designation because the stream and spring systems identified are dependent upon riparian areas for moderating water flow, shading which contribute to cool water temperatures, sediment retention which contributes to water clarity, and nutrient inputs. The boundaries of the riparian areas were delineated and mapped using the known or inferred stream channel elevation contours of the perennial stream segments. Riparian area boundaries were generally broader in larger watersheds which have low-gradient valley floors. These large watersheds also tend to contain more tributary subwatersheds with perennial water flow, as in the case of the Hanalei River where one of these tributaries contains a known subpopulation of Newcomb's snails. The mapped riparian area boundaries were smaller in those stream segments that exhibit narrow valley floors and steep valley walls directly adjacent to the streams (*for example*: Hanakoa and Hanakapiai Streams).

Areas designated as critical habitat for the Newcomb's snail occur in eight separate streams and include the main channel of a named stream, contiguous named and unnamed tributaries, and adjacent springs and seeps, and associated riparian areas (Table 1). Critical habitat includes sub-units under State and private ownership and includes six sites currently known to be occupied (Kalalau Stream, Lumahai River, Hanalei River, Waipahee stream, Makaleha Stream, and North Fork Wailua River) and, in addition, includes two sub-units where the species was known to occur in the early 1900s, but where it is now thought to be extirpated (Hanakoa and Hanakapiai Streams).

TABLE 1.—CRITICAL HABITAT UNITS FOR THE NEWCOMB'S SNAIL BY LOWER AND UPPER BOUNDARY ELEVATIONS IN METERS (M) (FEET (FT)) AND THE LENGTH OF THE STREAM SEGMENTS IN KILOMETERS (KM) (MILES (MI))

Critical habitat stream complex unit	Critical habitat sub-units	Ownership	Lower boundary elevation	Upper boundary elevation	Stream segment length*
I. Na Pali Coast Streams	(a) Kalalau Stream	State—Na Pali Coast State Park.	183 m (600 ft)	488 m (1,600 ft)	1.38 km (0.86 mi)
	(b) Hanakoa Stream	State—Na Pali Coast State Park.	122 m (400 ft)	457 m (1,500 ft)	0.80 km (0.50 mi)
	(c) Hanakapiai Stream	State—Na Pali Coast State Park.	183 m (600 ft)	457 m (1,500 ft)	0.56 km (0.35 mi)
II. Central Rivers	(a) Lumahai River	Private—Kamehameha Schools.	183 m (600 ft)	457 m (1,500 ft)	5.0 km (3.11 mi)
	(b) Hanalei River	State—Halela Forest Reserve.	122 m (400 ft)	457 m (1,500 ft)	7.58 km (4.71 mi)
III. Eastside Mountain Streams.	(a) Waipahee Stream	Private—Cornerstone Hawaii Holdings, LLC.	262 m (680 ft)	366 m (1,200 ft)	1.73 km (1.08 mi)
	(b) Makaleha Stream	State—Kealia Forest Reserve.	183 m (600 ft)	457 m (1,500 ft)	1.59 km (0.99 mi)
	(c) North Fork Wailua River.	State—Lihue-Koloa Forest Reserve.	335 m (1,100 ft)	427 m (1,400 ft)	1.12 km (0.7 mi)
Total					19.76 km (12.28 mi)

*Length of main stream channel, does not include tributaries or springs.

Certain areas with reported, but unconfirmed, populations of the Newcomb's snail have not been designated as critical habitat. We did not designate critical habitat in the Hanapepe Stream system where museum specimens apparently were collected in the 1840s but where no subsequent surveys have been undertaken. Also, we did not designate two areas where new information indicated that Newcomb's snails were observed in recent years, but whose populations have not been confirmed: a population at Kawaikini Falls of the upper North Fork Wailua River, and a population in a spring/tributary adjacent to the Waihina River at an approximate stream channel elevation of 180 to 190 m (590 to 620 ft). These additional sites are on river systems that are already represented in the critical habitat designation, and thus are not essential to the conservation of the

species, or are not designated for the reasons discussed under the section *''Summary of Changes from the Proposed Rule''* below.

Stream reaches are identified using elevations of the stream or tributary channels as upstream and downstream boundaries; these elevations were derived separately for each of the eight reaches and were delineated by recognizing unique physiographic features within each watershed such as waterfalls, small tributaries, and springs. A brief description of each stream reach and reasons for designating it as critical habitat are presented below.

Unit I: Na Pali Coast Streams

Streams in the Na Pali Coast unit are small, short, and flow over steep terrain. These streams are located in the northwest quadrant of the island, and, because they are located in smaller watersheds, they are directly exposed to coastal weather conditions. Rainfall in this area is lower than in the other watersheds designated as critical habitat. The vegetation of the Na Pali Coast Stream Unit consists primarily of mixed-species mesic (moderate moisture) forest composed of native and introduced plant species. The higher elevations are primarily native forest, but the lower elevations are more disturbed and are dominated by introduced plant species. Newcomb's snail is known from three stream sub-units in this unit, Kalalau Stream, Hanakoa Stream, and Hanakapiai Stream. Kalalau Stream is currently occupied. Hanakoa Stream and Hanakapiai Stream were known to harbor Newcomb's snail populations relatively recently but the species is now thought to be extirpated at those sites.

Sub-Unit I(a): Kalalau Stream

Critical habitat for Newcomb's snail is designated for all flowing waters associated with the east fork of Kalalau Stream and its tributaries, including springs and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The Kalalau Stream location designated includes 1.38 km (0.86 mi) of stream channel and 149 ha (368 ac) and lies within the elevational contours of 183 to 488 m (600 to 1,600 ft). This reach contains one of the two largest known populations of Newcomb's snails, and it contains the largest observed population of snails documented on public lands. At least two large, vertical or overhanging waterfalls in this reach appear to provide important refuge from high, channel-scouring flows (S. Miller, *in litt.* 1994b). This population is currently the most isolated of the known Newcomb's snail populations, and it is separated from the nearest neighboring population, located in Lumahai River, by 11.8 km (7.3 mi). It is the only remaining population in the northwest quadrant of the island.

This sub-unit is essential to the conservation of Newcomb's snail because it has the most robust population of snails ever recorded, as documented in a Service survey conducted in 1994. This sub-unit is required to maintain one of the six known populations of snails. This stream segment is located within the Na Pali Coast State Park. Kalalau Stream has no water diversions.

Sub-Unit I(b): Hanakoa Stream

Critical habitat for Newcomb's snail is designated for all flowing waters associated with Hanakoa Stream and its tributaries, including springs and seeps and riparian habitat necessary to maintain the integrity of the watershed. The Hanakoa Stream location designated includes 0.80 km (0.50 mi) of stream channel and 63 ha (156 ac) and falls within the elevational contours of 122 to 457 m (400 to 1,500 ft). Historical records from the early 1900s indicate that Newcomb's snails were found in this stream; however, a recent survey failed to locate any snails (S. Miller *in litt.* 1994b). This reach is located on the northwest side of the island and is exposed to severe weather approaching from the northwest. Hanakoa Stream was heavily impacted by Hurricane Iniki in 1992 (Fitzsimons *et al.* 1993), prior to surveys intended to locate populations of Newcomb's snail.

This sub-unit is essential to the conservation of Newcomb's snail because the currently known occupied sub-units are not sufficient to provide for the long term conservation of the species alone. The sub-units currently known to be occupied by Newcomb's snail populations are not sufficiently dispersed to consider the species safe from extinction. Existing known populations are found in remarkably small areas of only a few square meters of aquatic habitat, each of which is at risk from even a small, localized landslide or high flow event. Hanakoa Stream also adds to the geographic diversity by adding areas in the northwest quadrant of the island which is likely to be most exposed to severe weather events such as hurricanes from the north and northwest. Currently, the only known occupied site in this quadrant is Kalalau Stream. With the exception of the Kalalau Stream population, all other populations of Newcomb's snails are located in the northeast or southeast quadrants of the island, and these sites would be exposed to severe weather events such as hurricanes primarily from the northeast and east. This location on Hanakapiai stream is within the historical range of Newcomb's snail, is well documented in museum and other historical records, and was most recently known to be occupied compared to other streams (the early 1900's as opposed to Hanapepe Stream where specimens were collected in the 1840's with no additional information available). Additionally, this stream segment is located within the Na Pali Coast State Park and is adjacent to the Honu O Na Pali Natural Area Reserve and has no water diversions which make it less likely to have land use conflicts.

Sub-Unit I(c): Hanakapiai Stream

Critical habitat for Newcomb's snail is designated for all flowing waters associated with Hanakapiai Stream and its tributaries, including springs and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The Hanakapiai Stream location designated includes 0.56 km (0.35 mi) of stream channel and 35 ha (86 ac) and falls within the elevational contours of 183 to 457 m (600 to 1,500 ft). Historical records indicate that Newcomb's snail occurred in this reach; however, no recent surveys have located snails (M. Kido, *in litt.* 1994; G. Smith, pers. obs. 2002). This reach, like those in Kalalau and Hanakoa streams, is located in the northwest portion of the island and is exposed to severe weather from the north and northwest (Fitzsimons *et al.* 1993).

This sub-unit is essential to the conservation of Newcomb's snail because currently occupied sub-units and the addition of one other unoccupied stream is not sufficiently dispersed to consider the species safe from extinction. As with sub-unit I(b), the addition of Hanakapiai Stream will provide section 7 protections for additional habitat necessary to re-establish the snail in additional streams in this part of the island and once the snails are reestablished, will decrease the risk of losing the presence of snails in the northwest quadrant of the island. Streams in the northwest quadrant of the island are likely to be most exposed to severe weather events such as hurricanes from the north and northwest and currently only contains one occupied location in Kalalau Stream. The five other known occupied stream sub-units are located in the northeast or southeast quadrants of the island, and these sites would be

exposed to severe weather events such as hurricanes primarily from the northeast and east. This location on Hanakoa stream is within the historical range of Newcomb's snail, is well documented in museum and other historical records, and was most recently known to be occupied compared to other streams (the early 1900's as opposed to Hanapepe Stream where specimens were collected in the 1840's with no additional information available). In addition, this stream segment is located within the Na Pali Coast State Park and is adjacent to the Honu O Na Pali Natural Area Reserve and has no water diversions, making it less likely to have conflicting land uses.

Unit II: Central Rivers

The central rivers of Kauai are large relative to other streams in the State, and flow through relatively low-gradient watersheds. These rivers are located in the northern half of the island and, because their headwaters are located well inland and in large valleys, are exposed to weather conditions that are greatly influenced by the surrounding landmass. Rainfall in this area is higher than in the other watersheds designated as critical habitat. The vegetation of the Central Rivers Complex watersheds consists primarily of mixed-species wet and mesic forest composed of native and introduced plant species. The higher elevations are primarily native forest, but the lower elevations are more disturbed and are dominated by introduced plant species. The two sub-units, Lumahai River and Hanalei River are occupied by Newcomb's snail.

Sub-Unit II(a): Lumahai River

Critical habitat for Newcomb's snail is designated for all flowing waters associated with Lumahai River and its tributaries, including springs and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The Lumahai River location designated includes 5.0 km (3.11 mi) of stream channel and 492 ha (1,216 ac) and falls within the elevational contours of 183 to 457 m (600 to 1,500 ft). One of the largest populations of Newcomb's snails ever documented occurs in this reach of Lumahai River and its tributaries. This stream segment is located on private land. Lumahai River has no water diversions.

This sub-unit is essential to the conservation of Newcomb's snail because it has one of the most robust population of snails ever discovered, as recorded at the time of the discovery of the population by Hawaii Department of Land and Natural Resources division of Aquatic Resources personnel in 1994. This sub-unit is required as critical habitat to conserve one of the six known populations of Newcomb's snails.

Sub-Unit II(b): Hanalei River

Critical habitat for Newcomb's snail is designated for all flowing waters associated with the Hanalei River and its tributaries, including springs and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The Hanalei River location designated includes 7.58 km (4.71 mi) of stream channel and 876 ha (2,165 ac) and falls within the elevational contours of 122 to 457 m (400 to 1,500 ft), excluding ditches and flumes. The four sub-populations found within this stream system represent the largest number of Newcomb's snail sub-populations occurring within a single watershed. Segments of several named tributaries to the Hanalei River are included in this designation, and these include Kaapoko, Kaiwa, and Waipunaea Streams. This stream segment is located within the Halela Forest Reserve on State lands.

The critical habitat that contains the Hanalei River subpopulations of Newcomb's snail is essential to the conservation of the species because this area is needed to maintain one of the six existing known populations of snails.

A complex of stream diversion works that includes dams, ditches and tunnels, is found at the 378 m (1,240 ft) elevation of the Hanalei River, in the vicinity of the upper two main-channel Hanalei River sub-populations and upstream of the Kaapoko tributary sub-population at an elevation of 396 m (1,300 ft). These dams and associated ditches and tunnels historically diverted large volumes of water out of Kaapoko tributary and the Hanalei River to watersheds in the southeast portion of the island for irrigation use. Typical diversion structures in Hawaiian streams completely divert all of a stream's flowing water during moderate- to low-flow periods, leaving the stream channel below the dam completely dry. The water diversion structures and associated ditches and tunnels in the upper Hanalei River and its tributaries have been in disrepair since the early 1990s. Although these human-made features locally alter flow characteristics, no water is currently diverted out of the Hanalei watershed.

Unit III: Eastside Mountain Streams

The streams designated as critical habitat in this area flow towards the east and southeast portions of the island and are intermediate in size. Rainfall is moderate in comparison to the other sub-units designated as critical habitat. All three of the sub-units included in this stream complex, Waipahee Stream, Makaleha Stream, and North Fork Wailua River, are occupied by populations of snails. The vegetation of the Eastside Mountain Stream watersheds consists primarily of mixed-species wet forest composed of native and introduced plant species. The higher elevations are primarily native forest, but the lower elevations are more disturbed and are dominated by introduced plant species.

Sub-Unit III(a): Waipahee Stream (Tributary to Kealia Stream)

Critical habitat for Newcomb's snail is designated for all flowing waters associated with Waipahee Stream and its tributaries, including springs and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The Waipahee Stream location in the proposed rule included 2.41 km (1.50 mi) of stream channel and 106 ha (262 ac). Due to new information received during the comment period, indicating that some of the area originally proposed does not contain the primary constituent element of perennial flow, we reduced the size of this designation by 0.68 km (0.43 mi) of stream channel and 40 ha (99 ac). The Waipahee Stream location designated now includes 1.73 km (1.08 mi) of stream channel and 66 ha (163 ac) and falls within the elevational contours of 262 to 366 m (680 to 1,200 ft). Newcomb's snail was historically known to occur in Waipahee Stream, and a survey has confirmed the presence of Newcomb's snails within this reach (A. Asquith, in litt. 1994a).

The location designated on Waipahee Stream is occupied by Newcomb's snail and is essential to the conservation of the species because this area is needed to maintain one of the six existing populations of snails.

Waipahee Stream is located on private land that, in areas below the 262 m (680 ft) elevation and outside of designated critical habitat, is undergoing a transition in use from commercial plantation-style sugarcane agriculture to pasture, forestry, diversified crops, and ''ecotourism'' use. Higher elevation areas (above the 262 m (680 ft) elevation) of these private lands, such as where Newcomb's snails are found, are not used for agriculture and are relatively undisturbed. Water is diverted from Kealia Stream at several locations at lower elevations (below the 262 m (680 ft) elevation) outside of the designated critical habitat location.

Sub-Unit III(b): Makaleha Stream (Tributary to Kapaa Stream)

Critical habitat for Newcomb's snail is designated for all flowing waters associated with Makaleha Stream and its tributaries, including Makaleha Springs, other springs, and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The Makaleha Stream location designated includes 1.59 km (0.99 mi) of stream channel and 95 ha (235 ac) and falls within the elevational contours of 183 to 457 m (600 to 1,500 ft). The Makaleha Stream and Makaleha Springs Newcomb's snail populations have been surveyed several times in recent years. Two subpopulations are known to occur within this reach. Newcomb's snails are found within the complex of small tributary streams originating from Makaleha Springs, and a small number of snails are found upstream of the springs at a waterfall located in the Makaleha Stream main channel. This stream segment is located within the Kealia Forest Reserve on State lands.

The critical habitat that contains the Makaleha Stream population of Newcomb's snail is essential to the conservation of the species because this area is needed to maintain one of the six existing populations of snails.

Water is diverted from Makaleha Stream and Kapaa Stream at several locations at lower elevations (below 183 m (600 ft) elevation) and outside of designated critical habitat locations.

Sub-Unit III(c): North Fork Wailua River

Critical habitat for Newcomb's snail is designated for all flowing waters associated with the North Fork of the Wailua River and its tributaries, including springs and seeps, and riparian habitat necessary to maintain the integrity of the watershed. The North Fork Wailua location in the proposed rule included 1.71 km (1.06 mi) of stream channel and 64 ha (158 ac). Due to new information received during the comment period indicating that some of the area we proposed did not contain the primary constituent element of perennial flow, we reduced this designation by 0.59 km (0.37 mi) of stream channel and 28 ha (68 ac). The North Fork Wailua River location designated now includes 1.12 km (0.7 mi) of stream channel and 36 ha (90 ac) and falls within the elevational contours of 335 to 427 m (1,100 to 1,400 ft). This population was discovered in 1995 and has fluctuated in size in subsequent observations (A. Asquith, *in litt.* 1995). This stream segment is located within the Lihue-Koloa Forest Reserve on State lands. A water diversion exists just downstream of the critical habitat boundary.

The location designated as critical habitat in the North Fork Wailua River is occupied by Newcomb's snail and is essential to the conservation of the species because this area is needed to maintain one of the six known populations of snails.

Effects of Critical Habitat Designation

Section 7—Consultation

The regulatory effects of a critical habitat designation under the Act are triggered through the provisions of section 7, which applies only to activities conducted, authorized, or funded by a Federal agency (Federal actions). Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR 402. Individuals, organizations, States, local governments, and other non-Federal entities are not affected by the designation of critical habitat unless their actions occur on Federal lands, require Federal authorization, or involve Federal funding.

Section 7(a)(2) of the Act requires Federal agencies, including us, to insure that their actions are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. This requirement is met through section 7 consultation under the Act. Our regulations define ''jeopardize the continued existence'' as to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR 402.02). ''Destruction or adverse modification of designated critical habitat'' is defined as a direct or indirect alteration that appreciably diminishes the value of the critical habitat for both the survival and recovery of the species (50 CFR 402.02). Such alterations include, but are not limited to, adverse changes to the physical or biological features, i.e., the primary constituent elements, that were the basis for determining the habitat to be critical.

The relationship between a species' survival and its recovery has been a source of confusion to some in the past. We believe that a species' ability to recover depends on its ability to survive into the future when its recovery can be achieved; thus, the concepts of long-term survival and recovery are intricately linked. However, in the March 15, 2001, decision of the United States Court of Appeals for the Fifth Circuit (*Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434) regarding our previous not prudent finding, the Court found our definition of destruction or adverse modification as currently contained in 50 CFR 402.02 to be invalid. In response to this decision, we are reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

Section 7(a)(4) 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. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (*see* 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species nor to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. This consultation assists Federal action agencies in ensuring that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in jeopardizing a listed species or the destruction or adverse modification of critical habitat, we would also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and

technologically feasible, and that the Director believes would avoid jeopardy or the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat.

Activities on Federal lands that may affect the Newcomb's snail or its critical habitat would require section 7 consultation; however, no populations of Newcomb's snail are known to exist on Federal land. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (ACOE) under section 404 of the Clean Water Act, or some other Federal action, including funding (*e.g.,* from the Federal Highway Administration, Federal Aviation Administration, Federal Emergency Management Agency, or Natural Resources Conservation Service) which may affect a listed species or its critical habitat will be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may result in the destruction or adverse modification of critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for the conservation of the Newcomb's snail is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species. Activities that may directly or indirectly adversely affect critical habitat include, but are not limited to:

(1) Destroying or degrading Newcomb's snail habitat (as defined in the primary constituent elements discussion) through activities adjacent to or upstream of Newcomb's snail habitat. Such activities may include reduction or redirection of stream or spring water flow, dam construction, channel alteration or realignment, substrate alteration, or other direct means (*e.g.,* pesticide or herbicide application, waste discharge, ground water withdrawal, ground water contamination, reduction of ground water recharge, *etc.*).

(2) Appreciably decreasing habitat value or quality through indirect effects (*e.g.,* introduction or promotion of invasive plant species, watershed degradation through overgrazing, augmentation of feral ungulate populations, an altered fire regime, or other activities that degrade water quality or quantity to an extent that it detrimentally affects stream structure and function).

If you have questions regarding whether specific activities will constitute adverse modification of critical habitat, contact the Field Supervisor, Pacific Islands Ecological Services Field Office (*see* **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations on listed wildlife and plants and inquiries about prohibitions and permits should be directed to the U.S. Fish and Wildlife Service, Endangered Species Act Section 10 Program at the same address.

Application of the Section 3(5)(A) Criteria Regarding Special Management Considerations or Protection

Areas containing the primary constituent elements that are under management to fully address the conservation needs of the Newcomb's snail and that do not require additional special management or protection do not meet the definition of critical habitat in section 3(5)(A)(i) of the Act and would not be included in this critical habitat designation. Special management and protection are not required if adequate management and protection are already in place. Adequate special management or protection is provided by a legally operative plan/agreement that addresses the maintenance and improvement of the primary constituent elements important to the species and manages for the long-term conservation of the species.

To determine if a plan provides adequate management or protection we consider: (1) Whether a current plan specifies the management actions and whether such actions provide sufficient conservation benefit to the species; (2) whether the plan provides assurances that the conservation management strategies will be implemented; and (3) whether the plan provides assurances that the conservation management strategies will be effective. In determining if management strategies are likely to be implemented, we consider whether: (a) A management plan or agreement exists that specifies the management actions being implemented or to be implemented; (b) the plan includes a timely schedule for implementation; (c) there is a high probability that the funding source(s) or other resources necessary to implement the actions will be available; and (d) the party(ies) have the authority and long-term commitment to the agreement or plan to implement the management actions, as demonstrated, for example, by a legal instrument providing enduring protection and management of the lands. In determining whether an action is likely to be effective, we consider whether: (a) The plan specifically addresses the management needs, including reduction of threats to the species; (b) such actions have been successful in the past; (c) the plan includes provisions for monitoring and assessment of the effectiveness of the management actions; and (d) adaptive management principles have been incorporated into the plan.

Based on information provided to us by land owners and managers to date, several areas are covered under current management plans and are being managed in a manner that meets some of the conservation needs of the Newcomb's snail. For example, in the case of most state-owned and managed Forest Reserves and certain areas within State Parks, hunting of feral ungulates is a management action that is undertaken to maintain the integrity of the watersheds by retaining vegetative cover, reducing the effects of overgrazing on forest vegetation and soils, and subsequently limiting transport of sediments into streams. Despite the beneficial results of some management plans currently under implementation, we find that at no site does the current management adequately reduce the primary threats to this species, nor did any land owner or land manager expect that their actions were sufficient for consideration for exclusion under 3(5)(A)(i) of the Act.

Habitat Conservation Plans

Since there are no approved HCPs in which the Newcomb's snail is a covered species or other conservation plans that are currently completed that specifically address the Newcomb's snail, we did

not exclude any lands from this critical habitat designation pursuant to section 4(b)(2) of the Act on this basis.

However, we believe that in many instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them. We will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of the Newcomb's snail and appropriate management for those areas. The take minimization and mitigation measures provided under such HCPs may protect the essential habitat lands designated as critical habitat in this rule. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat. If an HCP that addresses the Newcomb's snail as a covered species is ultimately approved, the Service may reassess the critical habitat boundaries in light of the HCP.

Summary of Comments and Recommendations

In the proposed rule published on January 28, 2002, (67 FR 3849) we requested all interested parties to submit comments on the specifics of the proposal including information related to biological justification, policy, economics, and proposed critical habitat boundaries. The comment period was scheduled to close on March 29, 2002. The comment period was extended until April 29, 2002 (67 FR 15159) to allow for additional comments on the proposed designation, and comments on the draft economic analysis (EA) of the proposed critical habitat.

We contacted all appropriate State and Federal agencies, county governments, elected officials, the Office of Hawaiian Affairs, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of legal notices in two newspapers: the Honolulu Advertiser and the Garden Isle on March 29, 2002. We provided notification of the draft EA through telephone calls, letters, and news releases faxed and/or mailed to affected elected officials, media outlets, local jurisdictions, and interest groups. We also published the draft EA and associated material on our Region 1 Fish and Wildlife Office Internet site following its release on March 29, 2002. In addition to inviting public comment on the proposed designation and the draft EA analysis on the proposed designation, the latter notices announced the date and time of a public hearing on the proposed designation. The hearing was held on April 17, 2002, in Lihue, Kauai from 6:00 p.m. to 8:00 p.m. Transcripts of this hearing are available for inspection (see **ADDRESSES** section). The hearing was attended by approximately 15 people, and 9 persons provided oral testimony. Immediately prior to the hearing, Service staff presented informational materials to the public and were available for an informal question and answer session. Approximately 15 people attended the question and answer session.

Six biologists, with expertise in the fields of malacology (the study of mollusks) and stream ecology of Hawaii, provided scientific and technical peer review for the designation of critical habitat for the Newcomb's snail; all six responded with written comments. Four of the six expressed clear support for the designation, though they recognized the limitations of scientific knowledge of life history and population characteristics of Newcomb's snail. The remaining two scientific reviewers were of the opinion that, due to the lack of detailed distribution, life history, and population data for the species, the proposal could not be objectively reviewed. Three of the six stated that their review was made difficult by a lack of adequate scientific documentation specifically regarding threats due to predation and habitat degradation. Four of the reviewers supported including additional historically occupied sites because Newcomb's snail is cryptic and populations are highly localized; these reviewers felt that there was a high likelihood of undiscovered populations existing in these areas, and that there was a strong possibility of reconfirming occupation by snails of historically documented sites. One reviewer reported a population of Newcomb's snail previously unknown to the Service. This population was observed in the Wainiha river watershed in the late 1980s, downstream of the existing hydroelectric diversion. These snails were not found in the main river channel but in a spring-fed tributary. Two of the reviewers suggested specific locations where critical habitat should have been expanded; in one case this was to protect additional watershed areas upstream of the current boundaries. The other reviewer specifically suggested expanding the critical habitat to include the Wainiha River downstream of the hydroelectric diversion dam to protect the population of Newcomb's snails reported from that location. Our responses to these comments are either addressed in the text or below.

We received a total of 1,818 comment letters/testimonies, during the public comment period, a large number of these (1,800) were similar in nature and appeared to be from an organized mass mailing. Comments were received from a variety of State and local agencies, and separate private organizations or individuals. Of these 1,818 comments, 1,808 were in favor of the designation, 9 against it, and 1 was neutral. We reviewed all comments received for substantive issues and comments, and new information regarding the Newcomb's snail. Similar comments were grouped into three general issues relating specifically to the proposed critical habitat determination and draft EA on the proposed determination. Comments have been incorporated directly into the final rule or final addendum to the economic analysis or addressed in the following summary.

Issue 1. Biological Justification and Methodology

1. *Comment:* The majority of peer reviewers noted the lack of knowledge regarding basic biology of the species. Two of the scientific reviewers noted that little peer-reviewed biological and ecological information is available for the Newcomb's snail, and that much of the technical information used for the critical habitat designation is based on unpublished reports and field observations by Service staff, State biologists, and university researchers.

Our Response: As noted in the Background section of this rule, the Service recognizes the limited amount of scientific data available for this species, especially the very limited amount of information that is available in a peer-reviewed format. However, we are currently under court order to proceed with the designation of critical habitat. *Center for Biological Diversity* v. *Babbitt,* Civil No. 99–00603 (D. Haw. June 2, 2002). The Endangered Species Act requires us to use the best available scientific and commercial information in undertaking species listing and recovery actions, including the designation of critical habitat as set forth in this rule. Prior to the rulemaking process associated with listing the Newcomb's snail as threatened, the Service participated in or led a number of reconnaissance surveys in numerous watersheds on Kauai to document presence or absence of Newcomb's snails at these locations. In addition, our natural resource partners, including the University of Hawaii Sea Grant College Program, the State of Hawaii Department of Land and

Natural Resources Division of Aquatic Resources, and the University of Hawaii Stream Research Center, have provided us reports of field observations at many sites on Kauai including data from visits to at least 20 streams in watersheds across the island. While we acknowledge the lack of peer-reviewed published information regarding the Newcomb's snail, we have used the best scientific and commercial data available to identify and delineate the critical habitat boundaries.

2. *Comment:* Many areas of potential but unsurveyed critical habitat exist on Kauai. More specifically, several peer reviewers noted this as follows: (1) A thorough investigation should be conducted to determine whether other populations exist that may require critical habitat designation; (2) existing but undocumented populations should not be left out of critical habitat designation; (3) populations of snails could well have simply been missed during recent surveys.

Our Response: Because Newcomb's snail is small and somewhat cryptic, we acknowledge that there is some probability that new populations will be discovered. However, the process by which we analyzed current and historical distribution patterns and subsequently designated critical habitat was focused on determining and mapping those areas that are essential to the conservation of the species, based upon the best available scientific information. If undocumented populations are confirmed or additional populations are discovered in the future that lead us to reconsider critical habitat boundaries, we may revise the critical habitat designation if such action is supported by this new information and funding is available.

3. *Comment:* Several peer reviewers indicated that biological and hydrological processes outside of the critical habitat boundaries could have impacts to the Newcomb's snail. More specifically, these comments were: (1) Indirect effects of habitat alteration, especially activities that may promote expansion of non-native species that could potentially prey on the snail should be considered; (2) ground water withdrawals could have a negative effect on habitat requirements of the snail, and a recent U.S. Geological Survey (USGS) survey report discussing ground water withdrawals should provide useful information; (3) water development at a site out of the designated critical habitat area could still have detrimental effects on the life-history requirements of the target species; and (4) a more detailed discussion and justification is needed for including only mid-elevation locations, upper elevational changes could jeopardize the mid-elevation habitats and associated proximal scale primary constituent elements; as a result, inclusion of upper elevational linkage is important for maintaining sites without present snail occupation.

Our Response: We concur with the reviewers on the importance of these biological and hydrological processes for creating and maintaining habitat essential to the survival and conservation of the Newcomb's snail. We considered the importance of these processes, as well as the contribution of ground water in supporting stream ecosystems, when delineating the boundaries of critical habitat for this final designation We included the areas within and adjacent to the stream channels, springs, seeps and tributaries that provide for those biological and hydrological processes which are essential for the conservation of the Newcomb's snail.

4. *Comment:* One peer reviewer noted the following: (1) Habitat requirements are limited to generalized observations and are speculative on what may eventually be essential for the recovery of the species; (2) habitat features that are essential to the conservation of the snail are so generalized that they can be applied to almost any of the native stream animals, i.e., they are essential to all native stream animals; (3) designation of such large areas does not identify the habitat features essential to the conservation and recovery of the species.

Our Response: Both historical and current observations of Newcomb's snails in their natural habitats were used to infer a reasonable interpretation and description of the primary constituent elements required by the Newcomb's snail for its existence. Many, but not all, elements are shared by other aquatic organisms. The combination of the primary constituent elements for Newcomb's snail, and other hydrologic, elevational, and topographic characteristics that we evaluated, effectively narrowed the number of potential sites for consideration for critical habitat on Kauai to relatively few streams.

5. *Comment:* Two of the peer reviewers noted that some of the predators described in the proposal as potential threats may not co-occur with Newcomb's snail, and one specifically noted that predatory snails could extirpate small aggregations of Newcomb's snail in a very short time once the predator located them.

Our Response: Newcomb's snails are in fact found sympatrically with the introduced predator species in question, although not at every location where the snails are found. The snail populations in Makaleha Stream, North Fork Wailua River, and the Hanalei River are most likely to co-occur with these predators such as the introduced swordtail *Xiphophorous spp.* and the frogs *Rana spp.,* which prefer pool habitat. The populations found in Lumahai River and Kalalau Stream are less likely to encounter these predators because they are found in small tributaries, seeps and springs, or on protected rock surfaces under waterfalls. We note that a study on introduced rainbow trout diets in streams of the Kokee area of Kauai undertaken by the Bishop Museum (Englund *et al.* 2000) identified that Lymnaeid snails numerically made up the third largest dietary component of 80 trout whose stomach contents were analyzed, many of these Lymnaeids share similar life history and microhabitat preferences with the Newcomb's snail. In the report, the authors acknowledge that native populations of Lymnaeids could be affected by trout predation, but because the snails from the trout diet study were not identified to species, no definitive conclusions could be drawn. Terrestrial predators, such as rosey wolf snail (*Euglandina rosea*) and the introduced Sciomyzid marsh flies, are very widespread and have probably dispersed throughout the Newcomb's snail current and historic range. Therefore, despite the fact that not every predator listed as a potential threat co-occurs with the Newcomb's snail at every site, predation by introduced species is a concern in every critical habitat unit.

6. *Comment:* The degree of genetic flow between populations can be reasonably assumed to be very low. Straight-line map distances are not related to the dispersal abilities of the snails. In addition, inclusion of scientifically based inferences would improve the proposal justification. It is reasonable to assume the Newcomb's snail is hermaphroditic with a potential of more than one generation per year.

Our Response: It is reasonable to make the assumption that genetic flow between either sub-populations within a watershed or populations between watersheds occurs at a very low rate. In the Background section of this rule we report straight-line distances between several occupied sites along with the marked elevational changes of the ridgelines between the sites. By calling attention to the steep terrain, we illustrate the degree of physical (and resulting genetic) separation between the snails inhabiting these locations. It

is beyond the scope of this discussion to speculate on whether Newcomb's snail is dioecious (two sexes), or hermaphroditic (either concurrently or sequentially) or if the snail exhibits a semelparous (reproduce once then die) or other type of life history pattern, additional studies need to be conducted to answer these questions.

7. *Comment:* Several comments questioned the utility of designating critical habitat for recovery of the Newcomb's snail. These comments were: (1) Designations will not lead to recovery of the species; (2) designation of large tracts of land or water will not ensure benefit or recovery to a threatened or endangered species; and (3) designation of critical habitat will not do anything to accomplish the desired purpose of saving the species.

Our Response: Critical habitat designation is one of a number of conservation tools established in the Act that can play an important role in the recovery of a species. For a Federal action to adversely modify critical habitat, the action would have to adversely affect the critical habitat's constituent elements or their management in a manner likely to appreciably diminish or preclude the role of that habitat in the conservation of the species. Designation of critical habitat is a way to guide Federal agencies in evaluating their actions, in consultation with the Service, such that their actions do not hamper conservation of listed species. There also are educational or informational benefits to the designation of critical habitat. Education benefits include the notification of land owners, land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements.

8. *Comment:* How can the Service know an area is essential to the conservation of the species when the area does not currently support many, if any, individuals?

Our Response: Determination of critical habitat areas essential to the conservation of Newcomb's snail is not dependent upon current population size at any one location. Our analysis used historical information as an indicator of past population distribution, and further considered the degree of threat to these locations due to the random occurrence of natural disasters such as hurricanes, drought, and catastrophic landslides. The ultimate goal of our analysis was to designate only areas that are required for the conservation of the snail despite the potential for local extirpations of one or more individual populations. Critical habitat designation resulted from the consideration of topographic and hydrologic features at individual sites in light of the threat of elimination of one or more entire populations.

9. *Comment:* One commentor stated that Newcomb's snail was not found on a 1998 survey which included the area around Waipahee Stream on the Cornerstone Hawaii Holdings, LLC property. They were also unaware of any information that showed that the snail had been found to exist anywhere on the property or on lands adjacent to the property. They also stated that they were unaware of any information that the property was within either the current or historic range of Newcomb's snail. The commentor also stated that they were unaware of any attempts being made by the Service or any other governmental agency to enter the property to gather scientific data, and that there was no reason to believe that excluding the property from critical habitat designation would lead to the snail's extinction.

Our Response: Our records indicate that Newcomb's snails were observed in springs and tributaries adjacent to Waipahee Stream historically (circa 1910) and again in 1994 by Service and State of Hawaii Department of Land and Natural Resources, Division of Aquatic Resources personnel. The 1998 wildlife survey report mentioned by the commenter was focused on terrestrial wildlife and was not an aquatic organism survey, therefore was not designed to evaluate the presence or absence of Newcomb's snails. Waipahee Stream is one of only six watersheds known with certainty to harbor extant populations of Newcomb's snails. This fact, along with the physiographic position of the Waipahee watershed on the island, indicates that the location is essential to the conservation of the Newcomb's snail. Service biologists will coordinate with the landowner to collect scientific data as time and resources allow.

10. *Comment:* The North Fork Wailua River, Hanalei River, and Wainiha River are not essential to the conservation of the species.

Our Response: The North Fork Wailua River and the Hanalei River are two of only six watersheds known with certainty to harbor current populations of Newcomb's snails. When evaluating the needs of a species known from only a few populations, this fact alone indicates that the areas should receive special consideration and may be essential to the species conservation. Our analysis, based upon the topographic and landscape-level features of the island, coupled with the probability of threat from natural disasters have led us to conclude that these sites are essential to the conservation of the species. The potential value of the Wainiha River watershed for the recovery of the Newcomb's snail is also high; however, our reevaluation of the critical habitat sub-unit at that location led us to the conclusion that the sub-unit should be excluded based upon economic and other relevant impacts, consistent with section 4(b)(2) of the Act.

11. *Comment:* Several commenters addressed the scientific basis for the critical habitat designations. These comments were: (1) The science must be better known before the Service can designate critical habitat; (2) critical habitat designation should be reconsidered until the scientific details are available; (3) the Service should revisit the Wailua River with an independent aquatic biologist to confirm Newcomb's snail findings; (4) the proposed designations are overly broad and not based on sound science; and (5) there was a lack of peer review of the data.

Our Response: In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, we used the best available information in designating critical habitat. Our analysis incorporated virtually all published and unpublished scientific studies on the Newcomb's snail, as well as field notes and other information such as photos, sketches, and maps produced by Service and State agency biologists and university researchers. Service biologists also examined museum collections and catalogs and corresponded with museum-affiliated researchers at the National Museum of Natural History (Smithsonian) and the British Museum of Natural History regarding early collections and locality information associated with the Newcomb's snail. During the development of the proposed designation and following its publication during the extended comment period, we solicited biological data and public participation in the rule-making process. In accordance with our policy on peer review published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of appropriate and independent specialists regarding the proposed rule. We solicited comments from six biologists with expertise in the fields of malacology (the study of mollusks) and stream ecology of Hawaii. They provided scientific and technical peer review for the designation of critical habitat for the Newcomb's snail; all six responded with written

comments. Four of the six expressed clear support for the designation.

The purpose of this peer review was to ensure that our designation methodology for Newcomb's snail critical habitat was based on scientifically sound data, assumptions, and analyses. The comments of all of the peer reviewers were taken into consideration in the development of this final designation. We are currently unable to conduct more detailed research, such as a population viability analysis, for the Newcomb's snail due to time and funding constraints. We are required under a court-approved settlement agreement to finalize this designation by August 10, 2002. We will continue to monitor the species and collect new information as time and resources allow. If supported by new information, we may revise the critical habitat designation in the future.

12. *Comment:* Several comments addressed the designation of the North Fork Wailua River sub-unit citing the lack of specific information that designation of the sub-unit would lead to Newcomb's snail recovery. These comments were: (1) That it is premature to conclude the North Fork Wailua River has a significant snail population or that it would be a suitable place for rehabilitation of the species; (2) an investigation should be made as to why the population declined in the North Fork Wailua River and if the snails ever lived here in great numbers to evaluate whether any habitat alteration would make any difference; and (3) how can the North Fork Wailua River become a place of restoration for the snails when they are impacted by frequent floods, landslides, and hurricanes.

Our Response: The North Fork Wailua River is one of only six watersheds known with certainty to harbor extant populations of Newcomb's snails. This fact alone indicates that the area is of considerable importance to conservation of the species. Anecdotal evidence indicates that of all snail populations observed, the population found in the North Fork Wailua River appears to be the most variable over time, perhaps due to localized stream channel topography which leads to frequent displacement of individuals due to recurring floods and resulting channel scour. However, only through a snail population monitoring program at this site can the suspected population variability be confirmed. Even if this is the case, the stream habitats occupied by Newcomb's snails frequently undergo considerable physical change due to the effects of floods and Newcomb's snail populations are expected to vary in response to these naturally occurring environmental events. The Newcomb's snails found in the North Fork of the Wailua River are located in the southwest extreme of the known range of the species, and considering the risk of catastrophic events occurring in one or more of the watersheds known to harbor Newcomb's snails, it is considered essential to the conservation of the species.

13. *Comment:* Several comments contrasted hydrologic conditions upstream and downstream of the water diversion structure located in the North Fork Wailua River. These comments were: (1) downstream of the diversion in the North Fork Wailua River does not contain the primary constituent elements; and (2) critical habitat for North Fork Wailua River should exclude the stream reach and tributary area below the ditch intake and diversion and critical habitat should not include any area downstream of a line drawn perpendicular to the centerline of the stream at the upstream end of the pool formed by the diversion dam.

Our Response: In response to our request for information regarding Newcomb's snail biology, and current or historical distribution, we obtained and analyzed new information that demonstrated complete dewatering of the reach below the water diversion structure located in the originally proposed critical habitat sub-unit on the North Fork Wailua River. Because a perennial instream flow of cool, clean water is considered to be an important primary constituent element for the Newcomb's snail, the dewatered reaches do not contain the primary constituent elements required and therefore do not meet the definition of critical habitat and are not essential for the conservation of the species. We modified the lower boundary of the sub-unit to only include the stream channel and adjacent area upstream of the diversion structure where stream flow is continuous. A similar modification was made to the Waipahee Stream sub-unit, based on the same rationale.

14. *Comment:* One peer reviewer reported a population of Newcomb's snails in the Wainiha River Valley. This population is reported to be downstream of the hydropower diversion in a tributary spring and seep area, not in the main channel of the river. The observation of this population of snails was in the late 1980s. As a result, it was suggested that we extend the lower elevational boundary for the originally proposed Wainiha River sub-unit from 244 m elevation to the 200 m elevation. Another commenter, who is affiliated with a university stream research institute, reported a population was observed in Kawaikini Falls in about 1997. The commenter recommended protecting the Kawaikini Falls population and the entire stream continuum down to the diversion weir, by extending the boundaries of the North Fork Wailua River sub-unit to include the entire stream from the point of diversion (approximately 326 m elevation) to the base of Mt. Waialeale/Mt. Kawaikini including all tributaries entering the main channel in the region.

Our Response: The Service believes that larger stream systems such as the North Fork Wailua River and the central rivers of Kauai such as Wainiha, Lumahai and Hanalei may harbor additional populations of Newcomb's snails because of these watersheds' large size and numerous hydrologic features such as mid-channel bedrock areas and seeps and springs that could support habitat for snails and the Service recognizes that additional survey efforts are needed to determine with certainty the existence of Newcomb's snails in the majority of potential habitat on Kauai, especially historically occupied areas that have not been resurveyed for many years. However, as noted elsewhere in this rule, in determining critical habitat in occupied habitat, we relied on well-documented observations of snail populations from recent years. While the reports provided by the commenters are useful in focusing future survey efforts, no verified collections or other supporting information (specific location data or photographs) accompanied the reports of Newcomb's snail populations previously unknown to the Service. Moreover, the proposed critical habitat sub-unit in the Wainiha River watershed was excluded from critical habitat designation as described in Exclusions Under 4(b)(2). The report of a sub-population in the upstream reaches of the North Fork Wailua River suggests that habitat conditions are adequate for Newcomb's snail in a variety of locations within that watershed; however, based on elevation and topography we believe the core area of suitable habitat to be demarcated by the critical habitat boundaries as presented in this rule.

In addition, an important consideration in delineating critical habitat was to create an adequate geographical configuration of critical habitat units which would eliminate the threat of extinction caused by natural disaster. This was accomplished by identifying multiple critical habitat units in different regions of the island. The resulting geographic array includes watersheds immediately to the east and immediately to the west of the Wainiha River, and includes a sub-unit in the

North Fork Wailua River Watershed approximately 3 km (1.9 mi) downstream of Kawaikini Falls. The two unoccupied units included in this rule, Sub-Unit I(b), Hanakoa Stream, and Sub-Unit I(c), Hanakapiai Stream are located in an area that is represented by only one occupied stream which would be inadequate to buffer against a natural disaster that occurred there.

15. *Comment:* Some commenters suggested that critical habitat boundaries be expanded to include Hanapepe Stream, because of a reported historical observation of Newcomb's snails in that watershed, and they requested that we designate habitat in the southern part of the island as well as the north and northeast.

Our Response: The critical habitat boundaries are based primarily upon the current distribution of Newcomb's snails, as documented by Service personnel and our natural resource and conservation partners in recent years. The degree to which historically occupied sites were considered was dependent upon the geographic location of the sites, the dates of last observation of the snails, and the ability of our staff to independently verify historical observations through review of historical records and examination of museum collections. We placed greater emphasis on more recent, well-documented historical observations that included site-specific locality information. Our correspondence with malacologists at the National Museum of Natural History did reveal a very early collection of Newcomb's snail from the Hanapepe watershed. The collection appears to have been made in about 1840 by members of the the U.S. Exploring Expedition (the Wilkes Expedition), approximately 25 years prior to the species being described. Service biologists examined the locality information associated with the specimen label and determined that it is insufficient to adequately describe where in the watershed the collection was made. We are not aware of any other historical or recent additional surveys or collections in the Hanapepe watershed to confirm the existence of Newcomb's snail. The Service recognizes that this new information is important because it indicates that the historical range of Newcomb's snail included sites somewhere along the course of the Hanapepe River. However, the critical habitat boundaries were based on currently occupied sites, or on well-documented observations confirming sites that were occupied at least through the 1910s or 1920s, as shown by detailed museum records. Other critical habitat units were chosen to create an array of multiple discrete populations across the island to reduce the risk of extinction due to catastrophic natural events such as hurricanes and enhance recovery. Our conclusion is that eight sites located in three physiographic provinces of the island are sufficient to achieve these goals.

16. *Comment:* Multiple commentors stated that the critical habitat designation should include all areas where Newcomb's snail formerly existed. Also, multiple commentors requested that unoccupied areas that are suitable for reintroduction of Newcomb's snail be designated critical habitat to reduce the risk of extinction.

Our Response: Historical distribution was an important factor in evaluating critical habitat for the Newcomb's snail, and especially the locations where Newcomb's snail have not been recorded in recent surveys and could be locally extirpated. Our requirement for establishing critical habitat is to designate only those areas that are essential for the conservation of the species, and this was accomplished by designating critical habitat sub-units within the six known watersheds where Newcomb's snail are found and in two of the watersheds where they may have been extirpated in recent years. This approach provides an array of critical habitat sub-units in three quadrants of the island. This approach will reduce the extinction risk due to the probability that entire populations will be eliminated due to the random occurrence of a localized natural disaster such as a hurricane or major landslide.

17. *Comment:* Other potential habitat may in time become essential to the survival of Newcomb's snail. Certain habitat types or geographical areas may be of greater importance to the species during different phases of its life history.

Our Response: We agree. As new information about the biology and life history of Newcomb's snail becomes available, we may revise the critical habitat designation in the future if new information supports a change in the critical habitat designation and funding is available.

18. *Comment:* Broad habitat-based conservation approaches to species recovery may be inappropriate for a small island State such as Hawaii.

Our Response: We are directed to use the best available information in undertaking species listing and recovery actions, including the designation of critical habitat. With very few exceptions, the scientifically accepted approach for protecting threatened or endangered species, including Newcomb's snail, is to employ habitat-based conservation strategies as a part of recovery planning and implementation. Establishing effective conservation measures on a small and isolated landmass such as Kauai requires conservation of habitat as well as control of other potential threats such as invasive species and introduced predators. Critical habitat designation is one mechanism by which potential changes to habitats resulting from federally funded or permitted projects can be reviewed.

19. *Comment:* Two commentors suggested that the Service describe the critical habitat designations in ''ahupuaa'' terms, and that the Service should take a watershed approach.

Our Response: The ahupuaa concept is that the basic management unit for natural resources, such as land and water, be demarcated roughly along watershed boundaries that extend from the mountains to the sea. This approach was used by ancient Hawaiians and is gaining renewed acceptance under current natural resources management schemes. By definition, critical habitat is only the area that is identified to be essential for the conservation of a species. In the case of Newcomb's snail, critical habitat units include distinct stream segments and portions of the adjacent associated riparian areas. We recommend that critical habitat unit boundaries be incorporated into larger landscape-level natural resource planning and watershed management that employ the ahupuaa concept.

20. *Comment:* Protecting critical habitat is essential not only for the recovery of this species, but also to protect the ecosystem on which Newcomb's snail relies for its long-term survival and recovery.

Our Response: We agree, however our designation of critical habitat is limited to the areas of habitat we conclude are essential for the conservation of the Newcomb's snail. Larger-scale ecosystem protection efforts should be addressed through other means.

21. *Comment:* Agricultural lands and areas supporting agricultural lands, including streams used for irrigation and hydropower generation, should be excluded from designation because the benefits of exclusion would far outweigh the benefits of designation, and exclusion would not result in the extinction of the species.

Our Response: No agricultural lands are included in the designation of critical habitat for Newcomb's snail. Also, no operating water diversion structures that remove water from stream channels for agricultural use are included in the designation.

Agricultural areas and water diversions are located downstream of the critical habitat sub-units established by this rule. Since no Federal actions associated with agriculture and its supporting infrastructure, such as stream water used for irrigation, were identified within the designated critical habitat units, we did not determine if the benefits of excluding any area associated with agriculture would outweigh the benefits of designation.

22. *Comment:* Critical habitat is going to prevent or very seriously impede any development of hydroelectric power.

Our Response: There are currently seven hydropower plants operating on the island of Kauai. These plants range in size from 0.5 to 3.8 megawatts and the latest was built in 1930. Since that time, while several power plants were proposed in the 1980s, none have been built and only one received all of the permits necessary to begin construction. The economic analysis also identified another potential project outside of critical habitat. This project, along with the one formerly permitted but not built are further discussed below and were covered in the economic analysis.

Federal Energy Regulatory Commission (FERC) records indicate that they have accepted a preliminary permit application for a hydropower project on the South Fork of the Wailua River. This is the only hydropower development proposal in existence on Kauai at this time, and the planning for this project will not be affected by designation of critical habitat. We are not aware of any current plans for hydroelectric plants on the streams that are being designated as critical habitat.

We are aware, however, of a plan that was proposed in the early 1980s by Alexander and Baldwin (A&B). A&B planned for a second power plant in the Wainiha Valley, upstream from their current operating plant. Apparently, A&B secured all of the permits necessary at that time to construct the project but at the last minute the company decided to invest their funds in an alternative project (a coffee company). Since that time, all of the approvals and permits that were obtained have expired.

Our economic analysis considered the feasibility of this project under current market conditions and concluded that the project is no longer feasible. The analysis also concluded that it was unlikely that any additional new hydropower projects would be considered and approved given existing environmental protection standards for the area, likely public opposition over stream diversions, and the resulting difficulties in obtaining approvals and permits. Furthermore, because the island has adequate electrical capacity for the foreseeable future, the energy price such a potential project would receive from Kauai Electric would likely be about seven cents per kWh, which would reflect avoided fuel costs but not capital costs. Consequently, the current market conditions make the feasibility of the previously planned project by A&B seem unlikely in today's climate.

Furthermore, all sites designated as critical habitat for Newcomb's snail are located in the State Conservation District, a land use status which greatly restricts the range of possible economic activities that may take place on those lands. Considering the existing land use designation under State law, and that no hydropower development has occurred at any site on the island in many decades, the economic forces and existing environmental and cultural concerns make it very unlikely that new hydropower projects will be approved, regardless of the status of lands with regard to critical habitat designation. Even if a hydroelectric project is proposed in designated critical habitat, and a FERC permit is required, section 7 consultation would not substantially affect such a project unless it jeopardizes the continued existence of the species or results in adverse modification of critical habitat, and even then, we would try to propose reasonable and prudent alternatives consistent with the purpose of the project.

23. *Comment:* How can the Service propose critical habitat or introduce snails in areas with water diversion when it appears likely that the snails will move within the stream?

Our Response: There are two potential types of snail movements that may occur. One is over geologic or evolutionary time-scales (tens or hundreds of thousands of years) where Newcomb's snails may move within stream systems, and that these movements would result in colonization of new areas of suitable habitat over very long periods of time. The second potential type of movement may come from the unlikely times when snails are involuntarily dislodged and may float downstream. We have no information to either support or refute the premise that this snail movement results in new areas being colonized over shorter time periods (decades or centuries). For this reason, whether or not snails might move within a stream in the event of a translocation experiment cannot be ascertained. Water diversion systems including dams, ditches and tunnels are human-made and are not expected to contain the primary constituent elements for the Newcomb's snail, and therefore, these structures are explicitly excluded from critical habitat designation.

24. *Comment:* Concern was expressed by two commenters about the potential for reintroduction or translocation of Newcomb's snail. These were: (1) that the Service apparently intends to spread Newcomb's snails into some streams where the snails are not known to currently exist; and (2) that the Service needs to provide additional information regarding the mechanism by which reintroduction of endangered or threatened species on privately owned lands would occur.

Our Response: A recovery plan is in development that will specify a range of actions that could be implemented for recovery of the Newcomb's snail. Translocation of snails to sites where snails were found historically, or to areas exhibiting suitable habitat characteristics will likely be a potential action outlined in the recovery plan. However, a variety of considerations will be evaluated prior to implementing any recovery action, such as the likelihood of success of a translocation experiment and its contribution to conservation of the snail. The agreement of participating private landowners, State or local agencies would be essential. The Service does not have authority to access state or private property to translocate a species without approval of the landowner, and would work with any such landowners to develop a mutually agreeable legal framework for partnership. Possible mechanisms could include, for example, development of a safe harbor agreement or designating any translocated population as an experimental population under section 10(j) of the Act. Federal funding may also be provided.

25. *Comment:* One commentor expressed serious concern with the suggestion that translocation experiments may take place in the Wainiha watershed as part of a recovery planning and implementation effort for the Newcomb's snail.

Our Response: As stated above, a recovery plan is in development that will specify a range of actions that could be implemented for recovery of the Newcomb's snail. Translocation of snails to sites where snails were found historically, including sites within the Wainiha watershed, or to other areas exhibiting suitable habitat characteristics, may be a potential action outlined in the recovery plan. Implementation of this or any other element of the recovery plan is not certain, and a variety of factors will be

evaluated prior to implementing any of the recovery actions under consideration. The Wainiha watershed is not included in this designation (*see* Exclusions Under 4(b)(2) below), and access for the purpose of reintroducing of snails into the Wainiha River or any other stream would require permission and cooperation of the landowner.

26. *Comment:* Plans to translocate snails are troubling since populations may be genetically unique and movement between stream systems can be disastrous. The plan is premature and further information is necessary.

Our Response: As explained above, a recovery plan is in development that will specify a range of actions that could be implemented for recovery of the Newcomb's snail. Prior to any translocation the effect upon the genetic structure of isolated sub-populations and the population as a whole will be evaluated in detail.

Issue 2. Policy and Regulations

27. *Comment:* One commentor wanted to be assured that none of their Federal tax dollars would inadvertently be used to aid or abet extinction of any native flora or fauna.

Our Response: Endangered Species Act section 7 consultations, which can be initiated by a Federal action within designated critical habitat, is a mechanism to assure that Federal actions do not jeopardize the continued existence of threatened or endangered species.

28. *Comment:* Hawaiian endangered species do not do well when people have access to them. Whenever Hawaiian endangered species are impacted by human populations, their numbers go down. Public access to critical habitat is going to have to be restricted.

Our Response: Undoubtedly, human activities have had a negative impact to many species in Hawaii. However, numerous threatened and endangered species are currently on the road to recovery through the direct intervention of humans. These include marine and terrestrial vertebrates, plants, and invertebrates. The designation of an area as critical habitat does not in itself restrict public access. The regulatory effect of critical habitat designation is limited to requiring consultation under section 7 of the Act for Federal actions. Since few, if any, Federal actions affect public access to the State and private lands designated as critical habitat for Newcomb's snail, it is unlikely that public access to these areas will be altered.

29. *Comment:* When private landowners are affected by zoning regulations that are perceived as restrictive, voluntary cooperation by private landowners will cease.

Our Response: We understand that there is the possibility of an unfortunate negative reaction from some private landowners for actions that the Service is mandated to undertake by Federal law. The Service strives to minimize the impacts to landowners through a variety of outreach and communication efforts. Economic and other relevant impacts of designation have been analyzed and considered in making this designation of critical habitat. Many threatened and endangered species occur on private lands and the Service recognizes the importance of conservation actions by private landowners. Cooperation from private landowners is an important element of Service conservation efforts, and the Service has had considerable success in developing partnerships with large and small landowners, government agencies, and non-governmental organizations for conservation activities on Kauai, in the State of Hawaii, and throughout the nation.

30. *Comment:* One commenter indicated that designation of critical habitat must accommodate traditional gathering rights of native Hawaiians as reflected in the State constitution.

Our Response: Newcomb's snails are not known to be a resource used traditionally by native Hawaiians. The Service does not anticipate that take of Newcomb's snails for traditional and customary use will occur. However, because traditional gathering does not involve a Federal action, the exercise of traditional gathering rights of native Hawaiians for other aquatic or terrestrial resources is not affected by this rule.

31. *Comment:* One commentor stated that excluding any areas from designation based on current management would violate 16 U.S.C. 1533(a)(3), and further stated that conservation efforts do not alter the habitat's critical nature or the need to ensure its protection. Multiple commentors stated that areas already subject to conservation measures or that may be the subject of conservation agreements in the future should not be excluded from critical habitat.

Our Response: Critical habitat is defined, in part, as areas on which are found the physical or biological features essential to the conservation of the species and which may require special management considerations or protections (16 U.S.C. 1532(5)). We believe that it is reasonable to interpret this provision as excluding areas which do not require special management or protection is already in place. This includes, for example, a legally operative plan/agreement that addresses the maintenance and improvement of the primary constituent elements required by the Newcomb's snail and which also provides certainty in management for the conservation of the species. A variety of specific criteria are used to evaluate whether adequate management and implementation of specified conservation actions are sufficient for lands to be excluded from critical habitat designation on this basis. While we recognize that some of the areas included within the critical habitat boundaries for the Newcomb's snail have some level of management, no management plans or documented conservation activities which specifically recognize and address the Newcomb's snail are in place or underway. Therefore, no lands were excluded on the basis of existing adequate management.

32. *Comment:* The Service did not adequately address the takings of private property as a result of designating critical habitat for the Newcomb's snail. If the critical habitat proposal would require reducing water diversions from any stream, the Service should investigate whether that would take anyone's vested water rights. In addition, if the proposed designation of critical habitat precipitates conversion of agricultural land to conservation land that has no economically beneficial use, then the Federal and State governments will have taken private property.

Our Response: We have assessed the takings implications of this rule in accordance with Executive Order 12630 and have concluded that this rule does not pose significant takings implications. Because no critical habitat sub-unit boundaries are located downstream of existing diversions, no requirements to reduce out-of-stream water use will arise as a result of this rule. Likewise, no land zoned for agriculture is included in the final rule, therefore no agriculture-zoned land could be rezoned for conservation as a result of this rule.

Issue 3. Economics

33. *Comment:* One commentor stated that the draft economic analysis (DEA) fails to satisfy the requirement of section 4 of the Act.

Our Response: We disagree. Section 4(b)(2) of the Act and 50 CFR 424.19 require us to consider the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We published our proposed designation of critical habitat for the Newcomb's snail in the **Federal Register** on January 28, 2002 (67 FR 3849). The draft economic analysis

(DEA) of the proposed critical habitat designation was made available for review and public comment during a 30-day public comment period beginning on March 29, 2002 (67 FR 15159). In the DEA, we performed a comprehensive review of all potential activities that may be impacted by the proposed critical habitat. Where possible we quantified the impacts of critical habitat designation, where this was not possible we qualitatively assessed the impacts. Based on the public comments received during the comment period, a final addendum to the economic analysis of critical habitat of the Newcomb's snail was drafted. The final addendum addresses the concerns raised through the comment period and takes into consideration new information. The draft economic analysis issued in March 2002 as modified by the addendum constitute the economic analysis for this final rule. Please refer to the Economic Analysis section of this final rule for a more detailed discussion of these analyses. Copies of both the economic analysis and the addendum are in the supporting record for this rulemaking and can be inspected by contacting the Pacific Islands Fish and Wildlife Office (refer to the **ADDRESSES** section of this rule).

34. *Comment:* One commentor stated that the Service fails to adequately analyze the economic impact to small entities under the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act. Another commentor stated that the cost to small entities will be substantial and devastating. A third commentor stated that three statements in the rule are erroneous: (1) We are certifying the rule will not have a significant effect on a small number of small entities; (2) we are certifying the proposed designation will not have a significant economic impact on a substantial number of small entities; (3) this proposed rule is not expected to significantly affect energy supplies.

Our Response: Under the Regulatory Flexibility Act (RFA) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal 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 government jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The economic analysis found that the only small entity that may be impacted by the designation of critical habitat is the Waipa Foundation. The Foundation is a small community-based corporation and is likely to be considered a small organization under the RFA/SBREFA definition. This would occur if the Waipa Foundation and Kamehameha Schools enters into an agreement with the Nature Conservancy of Hawaii (TNCH) to manage the Lumahai Valley for conservation and educational and cultural benefits. TNCH and the Waipa Foundation may seek funding from the Service to manage the valley, in which case the Service may conduct an internal consultation with a low level of complexity. The DEA states that the estimated cost of time and effort expended for a third-party applicant for a consultation with a low level of complexity is $1,400. Thus, the designation of critical habitat for the snail is not likely to have a significant economic impact on the Waipa Foundation or any other small entity.

Because they are not considered small entities, Federal and State agencies were not included in the RFA/SBREFA analysis. Also, neither of the private land owners affected by this rule are considered small entities: the Kamehameha Schools is a very large educational trust and has extensive land holdings statewide; and Cornerstone Kauai Holdings, Inc. is not considered a small business based upon its revenues resulting from land subdivision and resale (using the U.S. Small Business Administration (SBA) definition of small business). A&B is also not considered to be a small business based on its revenue structure and the corresponding SBA definition of small businesses for their industry sector. TNCH is likely to be involved in section 7 consultations on conservation projects that it undertakes, however TNCH is also a large organization that is dominant in the conservation and land management field in Kauai County.

Existing energy supplies will not be impacted by the critical habitat designation. No hydroelectric facilities lie within any of the eight critical habitat sub-units as designated. The waters entrained into the North Wailua Ditch by the North Fork Wailua River diversion, which is located downstream of critical habitat sub-unit IIIc, are diverted into the Waiahi Stream watershed. A complex of water diversions and ditches from these and adjoining streams are used to operate the Upper and Lower Waiahi Power Plants, which are owned and operated by Kauai Electric. The lower boundary of the North Fork Wailua River critical habitat unit was modified, on the basis of Newcomb's snail habitat requirements, to exclude the North Wailua Ditch diversion structure.

The State of Hawaii Department of Economic Development and Tourism (DBEDT) described the potential for new or expanded hydropower production capacity for Kauai. This agency reports that, because of existing protections and significant environmental concerns, the only location suitable for hydropower development is the Lower Wailua River, a location that would not be effected by the designation of critical habitat in this rule. As stated previously, if a hydroelectric project is proposed in designated critical habitat, and section 7 consultation results in finding such a project jeopardizes the continued existence of the species or results in adverse modification of critical habitat, the Service would try to propose reasonable and prudent alternatives consistent with the purpose of the Act that would allow the project to be completed.

As a result, we are certifying that the final rule will not have a significant effect on a substantial number of small entities and the rule will not significantly affect energy supplies. We are basing our assertion on the information provided in the economic analysis that was prepared for the proposed rule and the addendum to this analysis that was prepared for the final rule, which incorporated new information that was provided during the public comment period.

35. *Comment:* The DEA fails to consider economic impacts of listing and critical habitat that result through interaction with State law, specifically Hawaii's Endangered Species Act. *New Mexico Cattlegrowers Association* v. *U.S. Fish and Wildlife Service* requires consideration of the impact of listing as well as the impact of designating an area as critical habitat. Instead, the analysis is expressly limited to the impact of federal agency consultation under the jeopardy standard. However, since listing triggers listing under State law, the Service must consider the impact of take prohibitions under State law (and consequently federal law which prohibits destruction of plants in knowing violation of State law).

Our Response: The Service is addressing the 10th Circuit's concern that we consider the economic impacts

of designation by addressing all of the economic impacts of critical habitat designation even if they are attributable co-extensively to the listing of the species. In particular, since the only regulatory effect of critical habitat is from applications of section 7, the Service considers the economic impacts of section 7 consultations related to critical habitat even if they are attributable co-extensively to the listed status of the species. In addition, we look at any indirect costs of critical habitat designation such as where critical habitat triggers the applicability of a State or local statute. However, where it is the listing of a species that prompts action at the State or local level, the impacts are not attributable to critical habitat designation and are not appropriately considered in the economic analysis of critical habitat designation. Take prohibitions under Hawaii law are purely attributable to a listing decision and do not co-extensively occur because of critical habitat designations. There are no take prohibitions associated with critical habitat.

36. *Comment:* The DEA fails to consider economic impacts of critical habitat that result through interaction with State law, specifically Hawaii's Land Use Law. Critical habitat could result in downzoning under State law. HRS § 205–2(e) states that conservation districts shall include areas necessary for conserving endangered species. HRS 195D–5.1 states that DLNR shall initiate amendments in order to include the habitat of rare species. Even if DLNR does not act, the Land Use Commission may initiate such changes, or they may be forced by citizen suits. Areas for endangered species are placed in the protected subzone with the most severe restrictions. While existing uses can be grandfathered in, downzoning will prevent landowners from being able to shift uses in the future, reduce market value, and make the land unmortgageable.

Our Response: Economic impacts are not expected to occur as a result of the critical habitat designation due to land being redistricted from the state Agricultural, Rural, or Urban District to the Conservation District. All of the land designated as critical habitat for the Newcomb's snail is currently within the State Conservation District.

37. *Comment:* The DEA fails to consider economic impacts of critical habitat that result through interaction with State law, specifically Hawaii's Environmental Impact Statement Law. HRS 343–5 applies to any use of conservation land, and a full Environmental Impact Statement is required if any of the significance criteria listed in HAR 11–200–12 apply. One of these criteria is that an action is significant if it ''substantially affects a rare, threatened or endangered species or its habitat.'' This will result in costly procedural requirements and delays. However, the DEA does not acknowledge that any impact on endangered species habitat will be deemed to be ''significant.''

Our Response: Adverse impacts on development, including delays for additional studies and agency reviews, increased costs for environmental studies, increased risk of project denials, increased risk of costly mitigation measures, increased risk of litigation over approvals, etc., are not expected since, as discussed in the economic analysis, no development projects are likely to occur within the areas designated as critical habitat for Newcomb's snail. This reflects the facts that (1) the subject land is largely unsuitable for development due to the rugged mountain terrain, lack of access, and remote locations; and (2) existing land-use controls in the Conservation District severely limit development. None of the proposed critical habitat lies within the Special Management Areas designated by Kauai County under the Hawaii's Coastal Zone Management Program (HRS 205A).

38. *Comment:* The DEA fails to consider economic impacts of critical habitat that result through interaction with State law, specifically the State Water Code. HRS 174C–2 states that ''adequate provision shall be made for protection of fish and wildlife. HRS 174C–71 instructs the Commission of Water Resource Management to establish an instream use protection program to protect fish and wildlife. There are water diversion systems in at least four of the proposed units, including two irrigation ditches presently in use and one that is presently unused. However, the DEA does not consider whether designation would trigger State law limits on water diversion, even if they do not involve federal consultations under the ESA. Excluding artificial irrigation structures does not eliminate the economic impacts. If any water diversions will likely be reduced due to critical habitat designation, these economic effects must be considered. In addition, since landowners may depend on water pumped from other watersheds, these effects can be far-reaching.

Our Response: The areas designated as critical habitat for the Newcomb's snail were modified for biological reasons to only include stream channels upstream of operating water diversions (see explanation under Summary of Changes from the Proposed Rule). For this reason it is unlikely that the State would impose restrictions on existing stream diversions in order to restore stream flows. Since no current stream diversions or dewatered reaches downstream from the diversions remain in the critical habitat as modified we would not expect any loss of irrigation water to farmers and ranchers, or a related loss of existing and potential farm and ranch production. Concerns specific to Wainiha Valley no longer apply since critical habitat is no longer proposed for this area.

Further, as discussed in the EA, no known plans exist for new stream diversions for the purpose of hydroelectric power production or irrigation withdrawals in the subject areas. Because of existing and projected market conditions, and the significant environmental and cultural concerns that arose in conjunction with previous hydropower development schemes that were ultimately abandoned, approvals for new stream diversions for new hydropower plants or irrigation withdrawals are unlikely. Therefore potential loss of alternative energy production capacity and, for some private lands, a potential loss in property values, is similarly unlikely.

Instream uses protected by the State Water Code established in HRS 174-C include a variety of uses including recreation, cultural uses and scenic values, in addition to support and propagation of aquatic life. The instream use protection program established by the Water Code and implemented by the Commission on Water Resource Management does not expand in scope within areas designed as critical habitat.

39. *Comment:* One commentor stated that the DEA does not fully examine the indirect impacts on agriculture from designation. One commentor stated that the impact upon farmers who rely on irrigation water or working to obtain irrigation water must be addressed in the EA. One commentor stated that critical habitat designation and the additional restrictions it would place on the community will have a significant economic effect on water resources that directly support the agricultural industry.

Our Response: Our economic analysis considered both the direct and indirect impacts that the rule could have on the agricultural industry and concluded that this industry would not be significantly impacted. First, we are not designating critical habitat on any agricultural lands. Consequently, we do not believe that the designation will have a direct impact on agricultural activities. The

economic analysis also considered whether the agriculture industry could be indirectly affected through changes in their irrigation system resulting from critical habitat designation. The analysis concluded that existing irrigation systems could not be affected because they lie outside and downstream of designated critical habitat. Furthermore, it is unlikely that future irrigation systems will be affected by this rule because there are no currently known plans for new stream diversions and even without the Snail critical habitat, development of new stream diversions in these areas is unlikely given current environmental concerns, likely public opposition to new stream diversions, and difficulty obtaining permits in today's socio-economic climate.

The analysis also noted that as the sugar plantations shut down on Kauai, large volumes of water are freed for use by other agricultural activities. Replacement agricultural activities use significantly less water than sugarcane. Some of the former sugarcane lands have been replanted in diversified crops which generally use about half as much water per acre as sugarcane. However, most of the former sugarcane lands are now either lie fallow or are used for grazing cattle and are no longer irrigated. Thus, it does not appear likely that there will be an economic need for new diversions to support agricultural activities in the foreseeable future.

40. *Comment:* One commentor was concerned that if water development is restricted due to critical habitat impacts, the additional burden and costs associated with affordable housing and the visitor industry will have a tremendous effect. One commentor stated that there will be a significant socio-economic impact on the community by restricting activities and access to public lands, future water resource developments may be restricted to certain areas and require additional costs which may be passed on to the users, and affordable housing is dependent on the future availability of water resources.

Our Response: Increased restrictions on developing potable water resources, resulting in higher water costs and adverse impacts on affordable housing and the visitor industry are unlikely. Almost all potable water on Kauai is supplied from groundwater since these sources do not require expensive treatment. Existing and future drinking water sources are located downgradient of the areas designated as critical habitat for the Newcomb's snail. In addition, most of the critical habitat units are in areas that are far removed from where new wells are likely to be developed. Critical habitat designation for Newcomb's snail will have no adverse impact on groundwater recharge and will not reduce the sustainable yield of potable water from the aquifer.

Restrictions on access to public lands resulting in socioeconomic costs are also unlikely. Designation of critical habitat would impose no restrictions on access to public lands. However, as noted elsewhere, hiking to these lands is difficult due to their remoteness; some of the units are accessible only by helicopter and are rarely visited. New obligations for how private landowners manage their lands are not expected, however the potential cost of land and stream management under voluntary conservation programs for the snail are addressed in the EA.

41. *Comment:* One commentor stated that the cost of potential citizen suits preventing certain activities or requiring some sort of management in critical habitat was not discussed in the DEA. Another commentor stated that critical habitat designation will bring unnecessary and costly litigation. One commentor stated that proposed critical habitat could entail considerable cost to both the State and private landowners. One commentor stated that critical habitat designation could indirectly result in limitations or special management requirements being established on private lands. These costs should be considered. Costs of delays to projects while surveys, studies, and Service review are undertaken and all potential consequences of designation should be considered, not solely those with the direct jurisdiction of the Service.

Our Response: Some landowners and managers are concerned that this critical habitat designation will directly or indirectly impose new obligations on them with regard to how they must manage their land, even if they do not propose a new project, land use, or activity. However, the Act does not obligate landowners to manage their land to protect critical habitat, nor would landowners and managers be obligated under the Act to participate in projects to recover a species for which critical habitat has been established.

Adverse impacts on development, including delays for additional studies and agency reviews, increased costs for environmental studies, increased risk of project denials, increased risk of costly mitigation measures, increased risk of litigation over approvals, etc., are not expected since, as discussed in the EA, no development projects are likely to occur in the proposed critical habitat. This reflects the facts that the subject land is largely unsuitable for development due to the rugged mountain terrain, lack of access, and remote location; and that existing land-use controls in the Conservation District severely limit development. While it is conceivable that there may initially be an increase in subsequent lawsuits related to the critical habitat designation, it is not possible to predict their number, degree of complexity, or any other associated effect with project delays due to scant historical evidence for the Newcomb's snail.

42. *Comment:* One commentor stated that the DEA has a lack of a thorough benefits analysis. It does not include the benefits of watershed protection and improvement, protection of other stream and riparian biota, and the value of the snail as an indicator of ecological health. Other multiple commentors stated that the DEA ignored the benefit of keeping other native species off the endangered species list, of maintaining water quality and quantity, of promoting ground water recharge, and of preventing siltation of the marine environment, thus protecting coral reefs. Another commentor noted that additional benefits of critical habitat include combating global warming, providing recreational opportunities, attracting ecotourism, and preserving Hawaii's natural heritage. The Service must use the tools available such as a University of Hawaii Secretariat for Conservation Biology study that estimated the value of ecosystem services, to determine the benefits of critical habitat.

Our Response: There is little disagreement in the published economics literature that real social welfare benefits can result from the conservation and recovery of endangered and threatened species. Such benefits have also been ascribed to preservation of open space and biodiversity, both of which are associated with species conservation. Likewise, a regional economy can benefit from the preservation of healthy populations of endangered and threatened species, and the habitat on which these species depend. It is not feasible, however, to fully describe and accurately quantify these benefits in the specific context of the Newcomb's snail critical habitat. For example, most of the studies in the economics literature do not allow for the separation of the benefits of listing (including the Act's take provisions) from the benefits of critical habitat designation. The discussion presented in the DEA and in the Addendum provides examples of potential benefits, which derive primarily from the listing of the species, based on information obtained in the

course of developing the economic analysis. It is not intended to provide a complete analysis of the benefits that could result from section 7 of the Act in general, or of critical habitat designation in particular. In short, the Service believes that the benefits of critical habitat designation are best expressed in biological terms that can be weighed against the expected cost impacts of the rulemaking; our analysis under section 4(b)(2) of the Act focuses this comparison.

Regarding other native aquatic species, the Service believes that five species of concern (four snails and one fish) and one candidate species (a damselfly) may occur within the critical habitat boundaries for the Newcomb's snail. As more is learned about these species (*e.g.,* their populations and trends, ranges, threats to their survival, *etc.*), the Service may list one or more of them as threatened or endangered. As indicated in the economic analysis, the critical habitat designation and listing of the Newcomb's snail are expected to result in few or no modifications to projects or activities over the next ten years. Nevertheless, critical habitat designation may help to educate landowners and organizations about the locations of the Newcomb's snail and where to focus future conservation efforts, including efforts to control non-native predators. Thus, critical habitat designation may indirectly enhance the survival of other native aquatic species that share the same habitat as the Newcomb's snail. If the Service determines that one or more of these species does not need to be added to the threatened and endangered species list, the avoided cost (*i.e.,* economic benefits) could be large. However, the economic value of these indirect benefits to other native aquatic species is not quantified because of a lack of information on: (1) The nature and extent of future conservation projects due to the Newcomb's snail listing and its critical habitat designation, or enhancements to other conservation projects due to the Newcomb's snail; (2) the resulting improvements in stream quality; (3) the nature and extent of the benefits to other native aquatic species (*e.g.,* increases in their populations and ranges); (4) the reduced probability that one or more other species will be listed; (5) the avoided cost of the listing and designation of critical habitat; and (6) the economic value to society of enhanced survival of these species.

In the case of islandwide beneficial impacts, such as water recharge, the proposed Newcomb's snail critical habitat comprises a comparatively small area (less than 3 percent) of the mountainous interior of Kauai. As indicated in the DEA, the critical habitat areas are not subject to development pressures or other significant changes because they are located in the upper headwater reaches of streams. Much of the critical habitat is located in areas of steep slopes, remote locations, and difficult access; some of the units are accessible only by helicopter and are rarely visited. Also, all of the units are in the State Conservation District which severely limits development, most commercial activities, and other changes in land use. Assuming no Newcomb's snail listing and no critical habitat designation, no significant changes are expected in watershed, riparian, or stream conditions. Even with the species listing and critical habitat designation along with related efforts to control threats to the Newcomb's snail, anticipated changes in game-mammal management of surrounding lands (the most liberal hunting is already allowed in these areas in order to reduce ungulate populations), and other related land and stream management are not expected and, no significant changes to the watershed, riparian, or stream conditions are expected. Thus, critical habitat designation for the Newcomb's snail is expected to result in few benefits related to increased groundwater recharge, stream water quality, reduced siltation of nearshore reefs and other marine resources, reduced global warming, increased recreational opportunities, increased ecotourism, *etc.*

The 1999 analysis by University of Hawaii (UH) was, in fact, used in the DEA as a resource document for concepts, and for identifying documents that report the original research on certain subjects. However, the UH study has limited applicability for valuing the benefits of Newcomb's snail critical habitat designation for a number of reasons. First, the UH study had a different purpose, which was to estimate the total value of environmental benefits provided by the entire Koolau Mountains on the island of Oahu versus the value of the more limited benefits provided by the proposed Newcomb's snail critical habitat on the island of Kauai. Consistent with its purpose, the UH study provides no estimates of the changes in environmental conditions resulting from changes in land and stream management due to critical habitat designations. Furthermore, many of the assumptions and much of the analysis in the UH study are not transferable to the economic analysis for the Newcomb's snail critical habitat. For example, the value of water recharge in the UH study reflects projected water supply and demand conditions on Oahu, an island which is 9 percent larger than Kauai but has a population of more than 12 times that of Kauai. Also, the UH benefit analysis of reducing soil runoff is unique to three valleys that drain through partially channelized streams in urban areas into the man-made Ala Wai Canal. Since this canal was designed without adequate flushing from stream or ocean currents, it functions as an unintended settling basin and must undergo expensive dredging periodically. In addition, the recreational and ecotourism values provided in the UH study apply to areas that are accessible to most hikers, which is not the case with most of the Newcomb's snail critical habitat. As mentioned previously, the Newcomb's snail critical habitat units are located in the upper reaches of streams and rivers on Kauai, and the majority of these areas are rarely visited.

43. *Comment:* One commentor stated that the DEA fails to evaluate the practical effect of critical habitat designation will have on Special Management Area permits administered by Kauai County as required by Hawaii's Coastal Zone Management Act. Because these permits will be harder to get, it will result in delays which will cause a decline in property values and may make it impossible to develop.

Our Response: None of the critical habitat designated for the Newcomb's snail lies within the Special Management Areas designated by Kauai County under the Hawaii's Coastal Zone Management Program.

44. *Comment:* The conclusion under E.O. 12866 that the rule will not have an annual economic effect of $100 million or more, or adversely affect in a material way any sector of the economy or State or local governments or communities, is flawed because it does not consider the major adverse impacts from secondary effects.

Our Response: For the reasons explained in our EA, we do not believe that this rule, as designated, will have an annual economic effect of $100 million or more. However, pursuant to Executive Order (E.O.) 12866, Office of Management and Budget (OMB) determined that it raises novel legal or policy issues. Therefore, it is ''a significant regulatory action'' under E.O. 12866, and, as a result, it rule has undergone OMB review.

Both the DEA and the EA addendum provide analysis of the indirect costs associated with designation of critical habitat for the Newcomb's snail in terms

of land management, loss in property values, and impacts to existing and future stream diversions. These indirect costs were considered and those costs that could be quantitatively estimated were addressed in the DEA and the EA addendum. Some potential costs were not estimated because the likelihood of actually incurring the cost is considered to be extremely remote. For a complete listing of all secondary effects considered and any resulting economic impacts, refer to the DEA and the EA addendum under section 3.d Other Costs.

Summary of Changes From the Proposed Rule

Two critical habitat boundaries were modified due to new information received during the comment period. The downstream boundaries of Sub-Unit III(a) (Waipahee Stream) and Sub-Unit III(c) (North Fork Wailua River) were modified after our analysis of this new information.

In both locations, at various times, existing diversion structures completely remove water from the stream to ditch systems. This diverted water flows into a ditch system and is then used for irrigation and hydropower production. These diversion structures were built in the early 1900s during the expansion of the sugar industry in the Hawaiian Islands. At that time, no structural modifications were incorporated into the design of dams and weirs to facilitate passage of aquatic organisms, nor did environmental considerations lead to the maintenance of stream flows in the reaches below the dams. To the contrary, these diversion structures were expressly designed to be as efficient as possible in capturing and diverting as much of the stream flow as possible, particularly during periods of moderate and low flow, when agricultural demand for water resources is high.

The North Fork Wailua River sub-unit is located on State lands. A series of changes to agricultural water needs, ownership of plantation lands, and a transfer of ownership of the island's electrical power utility, have left long-term resolution of future water allocation and operation and maintenance of the ditch system in question. Despite some uncertainty with water use, State agencies charged with licensing the water withdrawals have committed to at least two private entities that this diversion will remain in place and continue to function much as it has historically. A rough, quantitative estimate and analysis of hydrologic characteristics of the diversion operation submitted to the Service by the current water users (Alton Miyamoto, V.P. and General Manager, Kauai Electric, *in litt.* 2002) demonstrated that the reach below the dam is dry approximately 25 percent of the time. Therefore, the area below the dam does not contain the primary constituent element of perennial flow and therefore is not critical habitat.

The Waipahee sub-unit is located on private lands that have already undergone a transition from sugar cane to diversified crops and grazing. The landowner continues to divert water from the stream to maintain reservoirs on the property to support these activities, and in anticipation of unspecified future water needs. Anecdotal evidence indicates that the diversion removes all of the water from the stream during low flow periods at the Waipahee diversion.

Because an ample instream flow of cool, clean water is considered to be one of the primary constituent elements for the Newcomb's snail, and the diversion structures in the proposed Waipahee and North Fork Wailua River sub-units have altered the hydrologic regimes of the reaches below the dams to the extent that no water flows past the dams during biologically significant periods of time, we conclude that the reaches below the diversion structures do not exhibit the primary constituent elements required by the Newcomb's snail and are therefore not essential for its conservation. In both cases, the lower elevation boundary of critical habitat was moved to a location just upstream of the diversion dam, where stream flow is continuous and subject only to natural fluctuation. This resulted in a reduction of 0.68 km (0.43 mi) of stream channel and 40 ha (99 ac) of total area from the final designation for the Waipahee Stream sub-unit and 0.59 km (0.37 mi) of stream channel and 28 ha (68 ac) of total area from the final designation for the North Fork Wailua River sub-unit.

The proposed critical habitat designation in the Wainiha River was excluded based upon the reasons set out below (*see* Exclusions Under Section 4(b)(2) below). Removing the Wainiha sub-unit resulted in removing an additional 5.3 km (3.3 mi) and 229 ha (566 ac) from the final designation of critical habitat.

Economic Analysis

Exclusions Under Section 4(b)(2)

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available, and that we consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species.

Following the publication of the proposed critical habitat designation, a draft EA was prepared to estimate the potential economic effects of the proposed designation. The draft EA was made available for public review on March 29, 2002 (67 FR 3849). We accepted comments on the draft EA until April 29, 2002. Additionally, we held a public hearing on the proposed designation and the draft EA on April 17, 2002, in Lihue, HI. Following the close of the comment period for the draft EA, a final addendum was completed which incorporated public comments on the draft EA and made any necessary modifications to the economic analysis. The economic analysis for this rule consists of the draft EA as modified by the Addendum to the EA.

Our economic analysis evaluated the section 7 economic effects associated with the listing of the Newcomb's snail as a threatened species under the Act, as well as any potential effects of the critical habitat designation above and beyond those economic impacts associated with listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a ''without critical habitat'' baseline and compared it to a ''with critical habitat'' scenario. The ''without critical habitat'' baseline represented the current and expected economic activity prior to the critical habitat designation, including protections afforded the species under Federal and State laws, as well as other existing land-use restrictions. The difference between the two scenarios measured the net change in economic activity attributable to the designation of critical habitat. The categories of potential costs considered in the analysis included the costs associated with: (1) Conducting section 7 consultations associated with the listing or with the critical habitat, including technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 consultations; (3) uncertainty and public perceptions resulting from the designation of critical habitat; and (4) potential offsetting beneficial costs associated with critical habitat including educational benefits. The majority of consultations resulting from the critical habitat designation for the Newcomb's snail are likely to address

conservation actions such as watershed restoration and ecosystem protection. While consultations related to future water management activities, such as hydropower and water diversion, are possible, they are considered unlikely for reasons discussed in the economic analysis.

The addendum to the draft EA estimates that the designation may result in potential economic effects of $28,500 over a 10-year period, and concludes that economic impacts anticipated from the designation of critical habitat for the Newcomb's snail would not be significant. This is a reduction of $5,200 from the costs estimated in the original draft EA, and is due to the exclusion of one of the originally proposed critical habitat sub-units, and the modification of boundaries of two other sub-units. As described in the analyses, direct costs result from conservation projects and secondary costs result from investigations of the implications of critical habitat designation. A more detailed discussion of our economic analysis is contained in the draft EA and the Addendum. Both documents are included in the supporting documentation for this rule making and available for inspection at the Pacific Islands Fish and Wildlife Office (refer to **ADDRESSES** Section).

No critical habitat sub-units proposed in the draft rule were excluded or modified due to economic impacts. However, as described above, section 4(b)(2) of the Act requires us to consider other relevant impacts, in addition to economic impacts, of designating critical habitat. A proposed critical habitat sub-unit located in the Wainiha River Valley was excluded from designation based upon the relevant issue that designation of critical habitat would have a negative effect on the voluntary landowner conservation activities in the Valley, both ongoing and in development. The proposed 566-acre sub-unit is on private lands owned by Alexander and Baldwin, Inc. (A&B). A&B owns a 10,120-acre parcel that encompasses the large and remote central segment of the Wainiha River Valley.

The proposed Wainiha sub-unit is not known to be occupied by Newcomb's snail, although there is a credible report of a population of snails observed downstream of the diversion dam in the late 1980s. The most likely conservation actions in the Wainiha River Valley for the Newcomb's snail would be experimental translocation to establish new populations of Newcomb's snail, and surveys to potentially locate undocumented populations in unsurveyed habitat. Both of these activities would require substantial voluntary cooperation by A&B. Long term conservation in the valley might also include development of a Safe Harbor Agreement or a rule under section 10(j) of the Act (described below), both of which would require considerable landowner support and participation.

(1) Benefits of Inclusion

The benefits of inclusion of the Wainiha River Valley sub-unit within the area designated as critical habitat for the Newcomb's snail would result from the requirement under section 7 of the Act that Federal agencies consult with us to ensure that any proposed actions do not destroy or adversely modify critical habitat. Historically, no consultations have occurred for the Newcomb's snail because the species was listed recently and is only found in remote locations on non-Federal lands where Federal actions are infrequent and therefore rarely trigger section 7 consultations.

Since about 1910, a run-of-the-river hydropower facility has operated in the Wainiha watershed. Currently, this hydropower plant is operated by Kauai Coffee Co., a subsidiary of A&B. The water diversion dam for the hydropower facility is immediately downstream of the boundary of the proposed critical habitat sub-unit for Newcomb's snail. There are no firm plans for new or expanded hydropower in the near future, and neither our draft EA or Addendum found a high probability of such expansion given the State Conservation District zoning of the land, environmental and cultural concerns, and the resulting exhaustive permitting and licencing procedures required for hydropower development.

Although we believe the likelihood of a consultation is remote, in the event that a hydropower development plan is actually proposed for this location, consultation requirements under section 7 of the Act would be triggered as a result of the permitting processes administered by the U.S. Army Corps of Engineers (ACOE) and, potentially, the Federal Energy Regulatory Commission (FERC). The benefit of critical habitat designation would ensure that any permits given by either the ACOE or FERC would not likely destroy or adversely modify any critical habitat. Without critical habitat designation in areas considered unoccupied by the Newcomb's snail, projects would not likely trigger consultation requirements under the Act.

Another benefit is that the designation of critical habitat can serve to educate the public regarding the potential conservation value of an area, and may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation value for certain species. Both of these outcomes are important for the Newcomb's snail. Because little is know of this species' biology and distribution, virtually any information that reaches a wide audience about this species can be considered valuable. Likewise, any information about this species and its habitats that reaches other parties engaged in conservation activities would be considered valuable.

(2) Benefits of Exclusion

The landowner and other interested parties stated that the designation of critical habitat as originally proposed could have a negative impact on future voluntary conservation efforts in Wainiha River Valley, including the reintroduction of Newcomb's snail. Through a voluntary agreement with the State of Hawaii Department of Land and Natural Resources Division of Forestry and Wildlife (DOFAW), A&B allows DOFAW to manage the Wainiha parcel for conservation purposes. Preservation of the parcel, in concert with the surrounding State lands (State-owned Halela Forest Reserve and the Alakai Wilderness Preserve), conserves watershed resources which in turn conserves habitat for Newcomb's snail. This management strategy is consistent with recovery of the species. While DOFAW restricts access to the parcel, they are not conducting management activities at this time. A&B has informed the Service that they are currently negotiating a voluntary conservation easement with TNCH to provide more active management of the valley for watershed protection. A&B has advised the Service that these negotiations, that will benefit Newcomb's snail by protecting its habitat, could be negatively impacted if critical habitat is designated for Newcomb's snail. Although the Service's draft EA did not find it likely, the landowners believe that critical habitat designation will result in State and County permits containing additional requirements and expense for protection of lands designated critical habitat.

Approximately one third, or 12,141 ha (30,000 ac), of the land owned by A&B lies within the State Conservation District. A significant portion of lands under conservation zoning as well as other lands provide habitat for and support resources such as threatened and endangered species and migratory birds. A&B has a history of entering into conservation agreements with various

Federal and State agencies and non-governmental organizations on many of these lands. These arrangements take a variety of forms. They include partnership commitments ranging from simply allowing access to A&B-owned lands for government agency and non-governmental organization conservation partners to undertake surveys and site visits, to more extensive participation such as the provision of staff and funding for more active collaborative conservation partnerships. Ongoing examples of this include cave conservation actions undertaken by Kukuiula Develpment Co., an A&B subsidiary, to preserve cave habitat utilized by endangered cave fauna in the Koloa area of Kauai; and the active participation of the East Maui Irrigation Co., another A&B subsidiary, in the East Maui Watershed Partnership which is a collaborative multi-party organization leading the conservation of land and water resources in the east Maui mountains. Thus, ongoing conservation partnerships with A&B have a proven conservation benefit for threatened and endangered species and other resources.

We believe it is essential for the recovery of Newcomb's snail to build on continued conservation activities with a proven partner. Approximately 80 percent of imperiled species in the United States occur partly or solely on private lands where the Service has little management authority. In addition, recovery actions involving the reintroduction of listed species onto private lands requires the voluntary cooperation of the landowner. Therefore, ''a successful recovery program is highly dependent on developing working partnerships with a wide variety of entities, and the voluntary cooperation of thousands of non-Federal landowners and others is essential to accomplishing recovery for listed species'' (Crouse *et al.* 2002). Because the Federal government owns relatively little land in the State of Hawaii, and because large tracts of land suitable for conservation of threatened and endangered species is owned by private landowners, successful recovery of listed species in Hawaii is especially dependent upon working partnerships and the voluntary cooperation of non-Federal landowners. This is illustrated by the distribution of Newcomb's snail on Kauai: none of the locations known to be occupied by the snail are under Federal ownership, one site where snails are known to occur is on private lands, and one site where the snail was known from historical observations is privately owned (the Wainiha River Valley). The remaining occupied and previously occupied sites are on state-owned lands. Without the cooperation of these non-Federal landowners, neither surveys nor reintroduction of the Newcomb's snail can occur.

Because the recovery plan for the Newcomb's snail is currently being drafted, specific strategies for recovery appropriate for the Wainiha River Valley are not yet in place. However, it is clear that recovery of the species require reproducing, self-sustaining populations of Newcomb's snails located in a geographic array across the landscape, with both population numbers and population locations of sufficient robustness to withstand periodic threats due to natural disaster or biological threats. Since the Newcomb's snail is considered to be extirpated from this area, and natural repopulation is likely not possible without human assistance, the establishment of a non-essential experimental population of Newcomb's snails under section 10(j) of the Act, as well as development of a Safe Harbor Agreement, will be considered in Newcomb's snail recovery planning for the Wainiha River Valley. Several issues will need to be addressed before a decision is made on how best to accomplish this goal, including, for example, the degree of geographic isolation of any translocated population and whether a translocated population would be considered to be essential. The apparent local extinctions of Newcomb's snails in three watersheds in the north and northwest part of its range (Hanakoa Stream, Hanakapiai Stream, and Wainiha River) indicate that active management of threats, and research into the feasibility of reintroductions, may have to occur in the near term. Therefore it is essential for us to maintain all possible options to achieve these goals.

Section 10(j) of the Act enables us to designate certain populations of Federally listed species that are released into the wild as ''experimental.'' The circumstances under which this designation can be applied are: (1) The population is geographically separate from non-experimental populations of the same species (*e.g.*, the population is reintroduced outside the species' current range but within its probable historical range); and (2) we determine that the release will further the conservation of the species. Section 10(j) is designed to increase our flexibility in managing an experimental population by allowing us to treat the population as threatened, regardless of the species' status elsewhere in its range. Threatened status gives us more discretion in developing and implementing management programs and special regulations for a population and allows us to develop any regulations we consider necessary to provide for the conservation of a threatened species. In situations where we have experimental populations, certain section 9 prohibitions (*e.g.,* harm, harass, capture) that apply to endangered and threatened species may no longer apply, and a special rule can be developed that contains the prohibitions and exceptions necessary and appropriate to conserve that species. This flexibility allows us to manage the experimental population in a manner that will ensure that current and future land, water, or air uses and activities will not be unnecessarily restricted and the population can be managed for recovery purposes.

When we designate a population as experimental, section 10(j) of the Act requires that we determine whether that population is either essential or nonessential to the continued existence of the species, based on the best available information. Nonessential experimental populations located outside National Wildlife Refuge System or National Park System lands are treated, for the purposes of section 7 of the Act, as if they are proposed for listing. Thus, for nonessential experimental populations, only two provisions of section 7 would apply outside National Wildlife Refuge System and National Park System lands: section 7(a)(1), which requires all Federal agencies to use their authorities to conserve listed species, and section 7(a)(4), which requires Federal agencies to informally confer with the Service on actions that are likely to jeopardize the continued existence of a proposed species. Section 7(a)(2) of the Act, which requires Federal agencies to ensure that their activities are not likely to jeopardize the continued existence of a listed species, would not apply to the 10(j) population except on National Wildlife Refuge System and National Park System lands. Experimental populations determined to be ''essential'' to the survival of the species would remain subject to the consultation provisions of section 7(a)(2) of the Act.

In order to establish an experimental population we must issue a proposed regulation and consider public comments on the proposed rule prior to publishing a final regulation. In addition, we must comply with the National Environmental Policy Act (NEPA). Also, our regulations require that, to the extent practicable, a regulation issued under section 10(j) of the Act represent an agreement between

the Service, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of the experimental population (*see* 50 CFR 17.81(d)).

The flexibility gained by establishment of a nonessential experimental population through section 10(j) would be of little value if there is a designation of critical habitat that overlaps it, as Federal agencies would still be required to consult with us on any actions that may affect the designated critical habitat. In effect, the flexibility gained from section 10(j) would be rendered useless by the designation of critical habitat. In fact, section 10(j)(2)(C)(ii)(B) of the Act states that critical habitat shall not be designated under the Act for any experimental population determined to be not essential to the continued existence of a species. Although our draft EA and Addendum conclude that the probability of a Federal action occurring in Wainiha Valley is remote, the decision not to designate critical habitat in this area retains all flexibility provided by section 10(j), if it were to occur.

Both section 10(j) and Safe Harbor Agreements are meant to encourage state, local, and private cooperation through management flexibility. Critical habitat is often viewed negatively by landowners. It is important for recovery of this species that we have the support of A&B when we move towards taking specific recovery actions within the Wainiha River Valley. An important element in the recovery planning process for the Newcomb's snail is that the Service retain the flexibility in management options for reestablishing the species in areas outside of its current occupied range. The benefit of excluding this area from critical habitat is that we would retain this flexibility.

(3) The Benefits of Exclusion Outweigh the Benefits of Inclusion

Based on the above considerations, and consistent with the direction provided in section 4(b)(2) of the Act, the Service has determined that the benefits of excluding Wainiha River Valley as critical habitat for Newcomb's snail outweigh the benefits of including it as critical habitat. This conclusion is based on the following factors:

1. The Wainiha River Valley is currently being managed on a voluntary and cooperative basis with the State of Hawaii to achieve important conservation goals, and A&B is negotiating a longer term agreement with TNC to manage the watershed for conservation. In the past, A&B has cooperated with the Service, the State, and other organizations to implement voluntary conservation activities on their lands that have resulted in tangible conservation benefits.

2. Given the current conservation management regime in place for the Wainiha River Valley, and the likely future conservation management described above, the Service believes the overall benefits of including this unoccupied sub-unit as critical habitat are relatively small. The designation of critical habitat can serve to educate the general public as well as conservation organizations regarding the potential conservation value of an area, but this goal will be effectively accomplished through the identification of this area in the Newcomb's snail recovery plan (USFWS in prep.) and in the management agreements described above. Likewise, there will be little Federal regulatory benefit to the species because, as described in the economic analysis, this proposed critical habitat sub-unit is unlikely to be affected by Federal activities requiring section 7 consultation. The Service is unable to identify any other potential benefits associated with critical habitat for this proposed sub-unit.

3. The proposed Wainiha River Valley critical habitat sub-unit is currently believed to be unoccupied by Newcomb's snail, and any future conservation efforts, such as translocation of snails to unoccupied habitat within the valley, will require the cooperation and good will of A&B. Also, the upper portions of the Valley owned by A&B include relatively pristine native forests. Preservation of these portions of the valley which require ongoing voluntary cooperation with governmental and private entities will protect the watershed and in turn the habitat for the snail.

4. A&B and other members of the public have commented that the designation of critical habitat in Wainiha River Valley will likely have a negative impact on ongoing and future voluntary conservation efforts by A&B in the valley. The Service believes there is a reasonable likelihood that A&B will curtail their current behavior of participating in voluntary conservation efforts on their lands on Kauai.

5. Critical habitat will also limit the management flexibility, including establishing nonessential experimental populations under section 10(j) of the Act or developing a Safe Harbor Agreement, needed to implement recovery actions and other conservation efforts for the Newcomb's snail in the Wainiha River Valley. If critical habitat is designated in this sub-unit we believe that existing and upcoming voluntary conservation programs, such as reintroduction, of Newcomb's snail into the Wainiha watershed will be impaired.

In conclusion, we find that the designation of critical habitat in Wainiha River Valley would most likely have a net negative conservation effect on Newcomb's snail recovery and other conservation activities. As described above, the overall benefits to the species of a critical habitat designation for this sub-unit are relatively small. We believe there is a higher likelihood of beneficial conservation activities occurring in the Wainiha River Valley without designated critical habitat than there would be with designated critical habitat in this location. We reached this conclusion because the landowner will more likely continue and increase their ongoing voluntary conservation efforts in the valley, to the benefit of the Newcomb's snail. Because the ultimate purpose of critical habitat is to contribute to the conservation of listed species, the Service believes it is reasonable and necessary to exclude areas from critical habitat where such designation has a high likelihood of negatively impacting ongoing voluntary conservation activities, and, in this case, the negative impacts outweigh any discernable conservation benefits of designation. Therefore, on balance it is the Service's conclusion that the net benefits of excluding the Wainiha River Valley from critical habitat for the Newcomb's snail outweigh the benefits of including it.

(4) Exclusion of This Sub-Unit Will Not Cause Extinction of the Species

The remaining eight critical habitat sub-units provide adequate habitat for the long term conservation of the species by providing six occupied sub-units and two unoccupied sub-units. These sub-units give protection from stochastic events and provide room for maintenance and expansion of the existing population. There is a much greater likelihood of undertaking conservation actions at this site to prevent extinction, such as translocation of snails to establish an additional population, without the Wainiha River Valley sub-unit being designated as critical habitat. Therefore, the exclusion of the proposed Wainiha River Valley sub-unit, which is not known to be occupied by the species at this time, will not cause the extinction of the Newcomb's snail.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and has been reviewed by OMB, as OMB determined that this rule may raise novel legal or policy issues. As required by E.O. 12866, we have provided a copy of the rule, which describes the need for this action and how the designation meets that need, and the economic analysis, which assess the costs and benefits of this critical habitat designation, to OMB for review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement 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 effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA also amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that rules will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In today's rule, we are certifying that the rule will not have a significant effect on a substantial number of small entities. The following discussion explains the factual basis for this certification.

Small entities include small organizations, such as independent non-profit organizations, small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.,* housing development, grazing, oil and gas production, timber harvesting, *etc.*). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. A ''substantial number'' of small entities is more than 20 percent of those small entities affected by the regulation, out of the total universe of small entities in the industry or, if appropriate, industry segment. In some circumstances, especially with proposed critical habitat designations of very limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

The only regulatory effect of the designation of critical habitat is on activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation. In areas where the species is present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect the Newcomb's snail. Federal agencies must also consult with us if their activities may affect designated critical habitat. When the species is clearly not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act. Because the Newcomb's snail has been listed only a relatively short time and there have been no activities with Federal involvement in these areas during this time, there is no history of consultations based on the listing of this species. Therefore, for the purposes of this review and certification under the RFA, we are assuming that any future consultations in the area designated as critical habitat will be due to the critical habitat designation.

Designation of critical habitat could also require reinitiation of consultation for ongoing Federal activities. However, since the Newcomb's snail has only been listed since January 2000, and there are no consultations involving the species, the requirement to reinitiate consultations for ongoing projects will not affect a substantial number of small entities.

None of the designation is on Federal lands. Six of the eight sites are on lands owned and managed by the State of Hawaii, which is not a small entity for purposes of this analysis. This includes sub-units within the Na Pali Coast State Park, Hono O Na Pali Natural Area Reserve, the Halela Forest Reserve and the Lihue-Koloa Forest Reserve. All of these land areas are primarily managed for conservation of natural resources, including threatened and endangered species.

Two of the eight sub-units of the designation are on private land. On private lands, activities that lack Federal involvement would not be affected by the critical habitat designation. Few, if any, activities of an economic nature currently occur on the private lands in the area encompassed by this designation. These areas are in the State Conservation District and have a very limited range of allowable activities that could occur there under the State Conservation District Use permitting program. Because of the Conservation District zoning, and because the sites are remote and inaccessible, development of commercial or agricultural activities is very unlikely. Therefore, Federal agencies such as the Economic Development Administration, which is occasionally involved in funding municipal projects, is unlikely to be involved in projects in these areas. On the Island of Kauai, previous consultations under section 7 of the Act between us and other Federal agencies most frequently involved the Department of the Navy and ACOE. In the case of ACOE consultations, the applicant is often the County of Kauai which is not considered a small entity as defined here. ACOE consultations involve permits for discharge of fill material in wetlands or waterways and occur due to the presence of threatened or endangered species (primarily the five endangered Hawaiian waterbirds) that spend at least part of their life in aquatic habitats. Because the stream channels designated as Newcomb's snail critical habitat are remote, no consultations due to ACOE permits are anticipated for activities such as road construction. Construction of new diversion structures in the stream segments designated as critical habitat,

or rehabilitation of the abandoned water diversion structures in the Hanalei critical habitat sub-unit, is unlikely because agricultural practices have changed and irrigation demands have greatly diminished, but if such activities do occur and involve discharge of fill, ACOE permitting and section 7 consultation would be required.

Furthermore, we have identified only four entities, of which one may be considered a small entity, that may be affected by the implementation of a critical habitat designation on private lands. The four entities that may be impacted by the critical habitat designation are The Nature Conservancy of Hawaii (TNCH), Kamehameha Schools, Cornerstone Hawaii Holdings, LLC and Waipa Foundation. Critical habitat may impact Kamehameha Schools and Cornerstone Hawaii Holdings, LLC in terms of a slight decrease in value of some land it owns in the Conservation District and possibly expenditures on services to investigate the implications of critical habitat. The RFA/SBREFA defines ''small organization'' as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field (5 U.S.C. 601). TNCH is a large organization that is dominant in the conservation and land management field in Kauai County. Thus, TNCH is not likely to be considered a small organization. Kamhameha Schools is a non-profit, private educational institution which owns a considerable amount of real estate in Hawaii and other states. It is the dominant private trust in Hawaii dedicated to education and thus is not a small organization. The U.S. Small Business Administration defines businesses in the land-subdivision and land-development industry as small if their annual sales are less than $6 million. According to this definition and the information we obtained for our economic analysis, Cornerstone Hawaii Holdings, LLC is not a small business. The only small entity that may be impacted by the designation of critical habitat is the Waipa Foundation. Our EA states that the Waipa Foundation could be impacted if Kamehameha Schools enters into an agreement with TNCH and the Waipa Foundation to manage the Lumahai Valley for conservation and educational and cultural benefits. TNCH and the Waipa Foundation may seek funding from the Service to manage the valley, in which case the Service may conduct an internal consultation with a low level of complexity. TNCH and the Waipa Foundation could be involved in the consultation process, but their involvement would not be mandatory. Most of the cost of the consultation is likely to be borne by TNCH and in addition, Kamehameha Schools and possibly other organizations are likely to provide funding to the Waipa Foundation to help cover some or all of the costs incurred during consultation. Therefore, the designation of critical habitat for the Newcomb's snail is not likely to have a significant economic impact on the Waipa Foundation or any other small entity.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. It would not affect a substantial number of small entities. The entire designation involves six sites on State lands and two sites on privately owned land, all of which are located in areas where likely future land uses are not expected to result in Federal involvement or section 7 consultations except for conservation activities.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211, which applies to regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this has been designated as a significant regulatory action by OMB under E.O. 12866 for the reasons described above, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. No significant energy production, supply, and distribution facilities are included within designated critical habitat. Further, for the reasons described in the economic analysis, we do not believe that designation of critical habitat for Newcomb's snail will affect future energy production, in particular, hydropower development. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 August 25, 2000 *et seq.*):

(a) This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that Federal agencies funding, permitting, or authorizing other activities must ensure that their actions will not adversely modify the critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated to result from critical habitat designation of occupied areas. In our economic analysis, we evaluated the impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation and found the direct and indirect costs associated with critical habitat designation to be small in relation to any small governments potentially affected.

(b) For the reasons described in the economic analysis and this final rule, this rule will not produce a Federal mandate on State, local, or tribal governments or the private sector of $100 million or greater in any year. The designation of critical habitat imposes no obligations on State or local governments. Therefore, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the Newcomb's snail in a takings implication assessment. The takings implications assessment concludes that this rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, this final rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with the Department of the Interior and Department of Commerce policy, we requested information from appropriate State resource agencies in Hawaii. The designation of critical habitat for the Newcomb's snail would have little incremental impact on State and local governments and their activities. The EA found that management of game hunting, conservation projects and natural disaster recovery projects may incur direct costs associated with section 7 consultations as a result of this designation. However, the designation may have some benefit to these governments in that the areas essential to the conservation of this species are more clearly defined, and the primary constituent elements of the habitat necessary for the survival of the species are identified. This definition and identification may assist these local

governments in long-range planning rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Newcomb's snail.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required. 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.

National Environmental Policy Act

We have determined that we do not have to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. The designation of critical habitat for the Newcomb's snail does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited in this rule is available upon request from the Pacific Islands Fish and Wildlife Office (*see* **ADDRESSES** section).

Author

The primary author of this document is Gordon Smith, Pacific Islands Fish and Wildlife Office (*see* **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. In § 17.11(h) revise the entry for ''Snail, Newcomb's'' under ''SNAILS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
SNAILS							
*	*	*	*	*	*		*
Snail, Newcomb's	*Erinna newcombi*	U.S.A. (HI)	Entire	T	680	17.95(f)	N/A
*	*	*	*	*	*		*

3. Amend § 17.95 (f) by adding critical habitat for the Newcomb's snail (*Erinna newcombi*) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(f) *Clams and snails.* * * *

Newcomb's Snail (*Erinna newcombi*)

(1) Critical Habitat Units are depicted for the County of Kauai, Hawaii, on the maps below.

(2) Within these areas, the primary constituent elements required by the Newcomb's snail are those habitat components that are essential for the biological needs of foraging, sheltering, reproduction, and dispersal. The primary constituent elements are: cool, clean, moderate-to fast-flowing water in streams, springs, and seeps; their adjacent riparian areas and hydrogeologic features that capture and direct water flow to these spring and stream systems; a perennial flow of water throughout even the most severe drought conditions; and stream channel morphology that provides protection from channel scour by having overhanging waterfalls, protected tributaries, or similar refugia.

(3) Existing human-made features and structures within the boundaries of the mapped units, such as dams, ditches, tunnels, flumes, and other human-made features that do not contain the primary constituent elements, are not included as critical habitat.

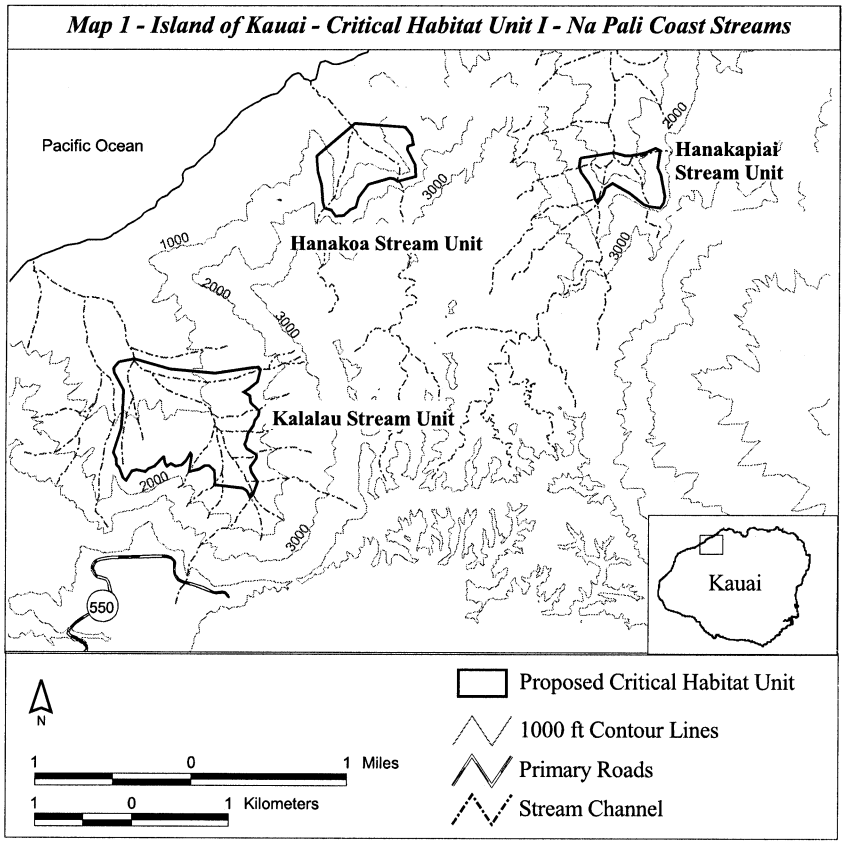
(4) Critical Habitat Unit I—Na Pali Coast Streams—(i) Unit I(a): Kalalau Stream (149 ha; 368 ac). The Kalalau Stream Newcomb's snail critical habitat location consists of all flowing surface waters within 63 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 435010, 2450871; 434991, 2450828; 435008, 2450782; 435112, 2450715; 435107, 2450681; 435044, 2450591; 435058, 2450537; 435120, 2450441; 435078, 2450308; 435048, 2450279;

435017, 2450341; 434968, 2450375; 434678, 2450406; 434682, 2450441; 434678, 2450551; 434618, 2450603; 434578, 2450602; 434518, 2450564; 434418, 2450540; 434444, 2450711; 434428, 2450733; 434388, 2450657; 434338, 2450612; 434278, 2450596; 434228, 2450621; 434188, 2450596; 434166, 2450621; 434159, 2450691; 434148, 2450691; 434058, 2450599; 433995, 2450571; 433968, 2450540; 433878, 2450559; 433825, 2450544; 433767, 2450451; 433738, 2450478; 433700, 2450581; 433670, 2450611; 433670, 2450671; 433633, 2450738; 433715, 2450996; 433732, 2451168; 433740, 2451380; 433642, 2451551; 433633, 2451598; 433688, 2451664; 433842, 2451694; 434206, 2451592; 434680, 2451547; 435053, 2451609; 435129, 2451611; 435147, 2451590; 435114, 2451460; 435048, 2451400; 434973, 2451360; 435041, 2451320; 435043, 2451250; 435134, 2451170; 435126, 2451120; 435089, 2451069; 435075, 2451013; 435018, 2450933; 435010, 2450871;

(ii) Unit I(b): Hanakoa Stream (63 ha; 156 ac). The Hanakoa Stream Newcomb's snail critical habitat location consists of all flowing surface waters within 24 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 435729, 2453628; 435717, 2453789; 436111, 2454127; 436637, 2454087; 436700, 2454008; 436719, 2453907; 436658, 2453889; 436654, 2453857; 436735, 2453697; 436744, 2453577; 436558, 2453527; 436518, 2453555; 436478, 2453559; 436250, 2453496; 436152, 2453358; 436123, 2453263; 436068, 2453238; 435998, 2453171; 435918, 2453168; 435869, 2453229; 435799, 2453248; 435780, 2453320; 435770, 2453490; 435729, 2453628.

(iii) Unit I(c): Hanakapiai Stream (35 ha; 86 ac). The Hanakapiai Stream Newcomb's snail critical habitat location consists of all flowing surface waters within 25 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 438438, 2453772; 438785, 2453827; 438899, 2453794; 438961, 2453796; 439113, 2453829; 439216, 2453871; 439257, 2453846; 439234, 2453666; 439263, 2453606; 439310, 2453377; 439299, 2453306; 439258, 2453253; 439158, 2453265; 439098, 2453290; 438949, 2453407; 438769, 2453508; 438692, 2453457; 438674, 2453387; 438618, 2453307; 438591, 2453347; 438578, 2453417; 438525, 2453507; 438443, 2453622; 438429, 2453677; 438438, 2453772.

(iv) Map 1—Unit I—Na Pali Coast Streams follows:

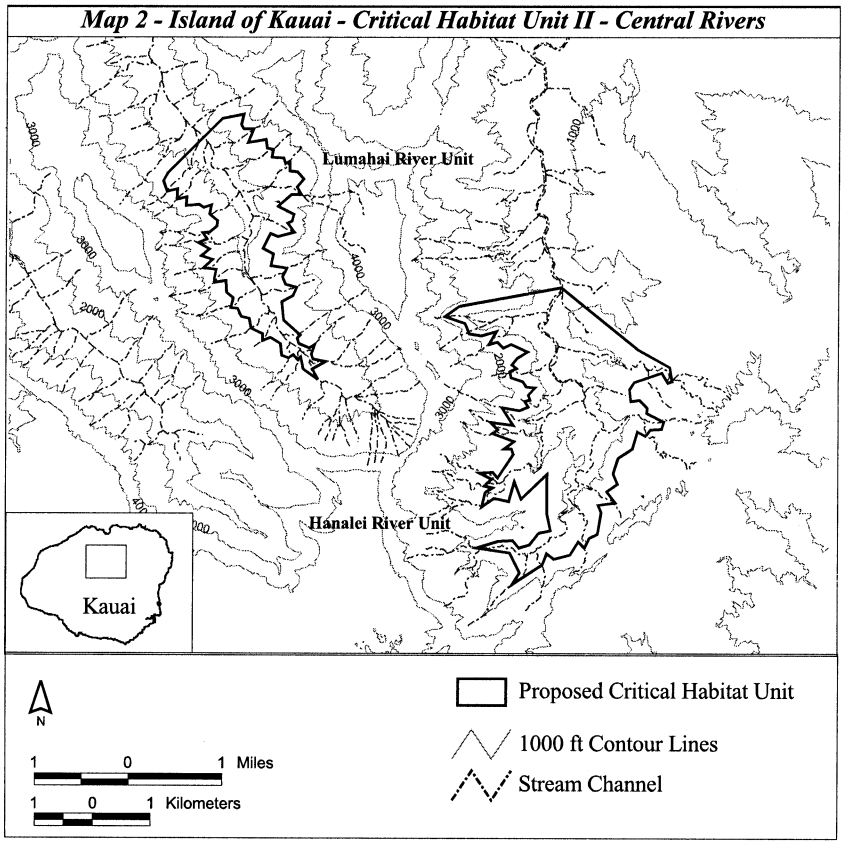


(5) Critical Habitat Unit II—Central Rivers—(i) Unit II(a): Lumahai River (492 ha; 1,216 ac). The Lumahai River Newcomb's snail critical habitat location consists of all flowing surface waters within 89 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 447598, 2445954; 447344, 2446136; 447298, 2446352; 447248, 2446290; 447178, 2446384; 447088, 2446327; 446972, 2446364; 446950, 2446572; 446787, 2446678; 446648, 2446627; 446648, 2446739; 446445, 2446836; 446409, 2447000; 446278, 2447034; 446208, 2447169; 446097, 2447178; 446141, 2447349; 446024, 2447449; 446014, 2447649; 445808, 2447618; 445809, 2447680; 445839, 2447840; 445616, 2447859; 445773, 2448009; 445589, 2448069; 445728, 2448189; 445531, 2448299; 445685, 2448359; 445605, 2448469; 445728, 2448478; 445854, 2448578; 445858, 2448680; 445728, 2448778; 445759, 2448939; 445618, 2448896; 445548, 2448954;

445318, 2448932; 445338, 2449080; 445164, 2449034; 445171, 2449211; 444998, 2449168; 444932, 2449348; 445008, 2449493; 445936, 2450417; 446309, 2450498; 446262, 2450317; 446309, 2450238; 446476, 2450245; 446385, 2450007; 446688, 2450060; 446714, 2449913; 446811, 2449890; 446799, 2449758; 446998, 2449747; 447028, 2449643; 447101, 2449690; 447098, 2449525; 447228, 2449509; 447343, 2449387; 447229, 2449247; 447298, 2449117; 447128, 2449116; 446901, 2448918; 447174, 2448778; 447144, 2448668; 447066, 2448628; 447190, 2448478; 446898, 2448400; 446778, 2448451; 446649, 2448198; 446831, 2448108; 446782, 2447899; 447064, 2447862; 446986, 2447707; 447038, 2447583; 447225, 2447529; 447162, 2447395; 446973, 2447289; 447008, 2446969; 447288, 2446719; 447234, 2446659; 447268, 2446571; 447448, 2446499; 447548, 2446559; 447484, 2446393; 447518, 2446304; 447739, 2446259; 447507, 2446131; 447598, 2445954;

(ii) Unit II(b): Hanalei River (876 ha; 2,165 ac). The Hanalei River Newcomb's snail critical habitat location consists of all flowing surface waters within 91 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 450038, 2447210; 451786, 2447529; 453099, 2446469; 453648, 2446167; 453691, 2445925; 453614, 2445904; 453508, 2446074; 453044, 2445908; 452961, 2445785; 452974, 2445578; 453125, 2445605; 453267, 2445468; 453258, 2445377; 453550, 2445238; 453508, 2445111; 453318, 2445096; 453238, 2444991; 453098, 2445064; 453010, 2444769; 452768, 2444606; 452680, 2444349; 452760, 2444169; 452581, 2444039; 452723, 2443844; 452429, 2443810; 452486, 2443680; 452419, 2443309; 452280, 2443240; 452198, 2443073; 452088, 2443185; 451948, 2442960; 451678, 2442885; 451549, 2442979; 451471, 2442787; 450955, 2442448; 451082, 2442651; 450916, 2442988; 450337, 2443081; 450718, 2443188; 450968, 2443197; 451068, 2443077; 451255, 2443133; 451414, 2443330; 451612, 2443370; 451552, 2443666; 451549, 2444330; 451107, 2443911; 450988, 2444210; 450894, 2443874; 450638, 2443920; 450431, 2443773; 450492, 2444026; 450614, 2444100; 450468, 2444134; 450592, 2444250; 450389, 2444360; 450621, 2444363; 450698, 2444275; 450967, 2444669; 450939, 2444770; 450803, 2444769; 450978, 2444899; 450611, 2445032; 450698, 2445101; 450573, 2445219; 450969, 2445168; 450768, 2445479; 451068, 2445422; 451226, 2445489; 451158, 2445584; 451251, 2445606; 451216, 2445692; 451335, 2445819; 451188, 2445824; 451124, 2445925; 450928, 2445983; 450904, 2446088; 451017, 2446148; 450940, 2446208; 451031, 2446325; 451208, 2446428; 450928, 2446552; 450788, 2446490; 450688, 2446603; 450538, 2446560; 450668, 2446774; 450418, 2446700; 450199, 2446739; 450133, 2446913; 449784, 2447034; 450038, 2447210.

(iii) Map 2—Unit II—Central Rivers—follows:



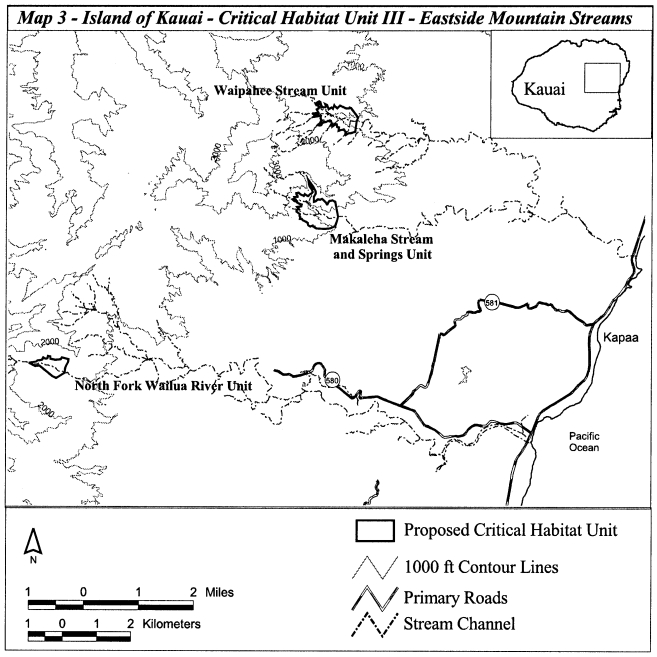
(6) Critical Habitat Unit III—Eastside Mountain Streams—(i) Unit III(a): Waipahee Stream (66 ha; 163 ac). The Waipahee Stream Newcomb's snail critical habitat location consists of all flowing surface waters within 78 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 458921, 2447414; 458943, 2447424; 458998, 2447420; 459102, 2447444; 459044,

2447534; 459104, 2447563; 459108, 2447613; 459085, 2447643; 459100, 2447671; 459118, 2447693; 459108, 2447714; 459078, 2447703; 459048, 2447661; 459028, 2447663; 459017, 2447694; 459045, 2447696; 459054, 2447727; 459118, 2447770; 459164, 2447749; 459191, 2447646; 459231, 2447596; 459309, 2447603; 459321, 2447623; 459306, 2447685; 459351, 2447663; 459398, 2447531; 459478, 2447584; 459518, 2447553; 459568, 2447656; 459586, 2447613; 459648, 2447556; 459738, 2447649; 459918, 2447569; 459998, 2447569; 460018, 2447584; 460048, 2447572; 460055, 2447576; 460261, 2447303; 460229, 2447182; 460178, 2446882; 460172, 2446875; 460058, 2446836; 459978, 2446834; 459906, 2446782; 459887, 2446803; 459902, 2446878; 459848, 2446946; 459818, 2446933; 459778, 2446940; 459694, 2446904; 459702, 2447004; 459648, 2447020; 459638, 2447098; 459608, 2447104; 459508, 2447031; 459502, 2447068; 459448, 2447061; 459500, 2447134; 459467, 2447203; 459445, 2447214; 459408, 2447183; 459388, 2447194; 459318, 2447163; 459268, 2447169; 459248, 2447139; 459218, 2447136; 459182, 2447074; 459148, 2447057; 459078, 2447076; 459083, 2447094; 459148, 2447124; 459185, 2447224; 459166, 2447274; 459178, 2447334; 459118, 2447345; 458948, 2447313; 459001, 2447384; 458928, 2447407.

(ii) Unit III(b): Makaleha Stream (95 ha; 235 ac). The Makaleha Stream Newcomb's snail critical habitat location consists of all flowing surface waters within 68 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 459368, 2444730; 459372, 2444732; 459414, 2444830; 459438, 2444851; 459498, 2444854; 459528, 2444873; 459588, 2444828; 459601, 2444832; 459689, 2444388; 459662, 2444260; 459604, 2444112; 459455, 2444044; 459279, 2444030; 459064, 2444037; 459008, 2444069; 459002, 2444101; 458968, 2444099; 458944, 2444123; 458878, 2444096; 458808, 2444142; 458803, 2444197; 458748, 2444245; 458658, 2444279; 458633, 2444322; 458576, 2444325; 458582, 2444377; 458552, 2444407; 458568, 2444467; 458478, 2444527; 458474, 2444587; 458537, 2444607; 458492, 2444667; 458608, 2444684; 458633, 2444746; 458545, 2444763; 458495, 2444803; 458485, 2444833; 458418, 2444844; 458347, 2444897; 458418, 2444925; 458411, 2444963; 458504, 2444960; 458503, 2444991; 458458, 2445046; 458458, 2445076; 458528, 2445084; 458582, 2445036; 458678, 2444990; 458718, 2445049; 458798, 2444992; 458818, 2444992; 458868, 2445050; 458908, 2445056; 458933, 2445106; 458927, 2445176; 458854, 2445276; 458808, 2445463; 458960, 2445258; 459033, 2445116; 459033, 2445066; 458978, 2444969; 458983, 2444831; 459038, 2444842; 459088, 2444900; 459158, 2444877; 459218, 2444913; 459331, 2444816; 459368, 2444730.

(iii) Unit III(c): North Fork Wailua River (36 ha; 90 ac). The North Fork Wailua River Newcomb's snail critical habitat location consists of all flowing surface waters within 23 boundary points with the following coordinates in UTM Zone 4 with the units in meters using North American Datum of 1983 (NAD83): 450656, 2440137; 450861, 2440154; 450920, 2440206; 450968, 2440196; 451045, 2440217; 451079, 2440286; 451145, 2440241; 451197, 2440262; 451211, 2440324; 451291, 2440314; 451291, 2440244; 451426, 2440217; 451589, 2440237; 451616, 2440286; 451811, 2440230; 451801, 2440139; 451748, 2440049; 451717, 2439976; 451701, 2439841; 451455, 2439688; 451343, 2439745; 450968, 2440043; 450840, 2440040.

(iv) Map 3—Unit III—Eastside Mountain Streams follows:



Dated: August 9, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–20696 Filed 8–19–02; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Tuesday,
August 20, 2002

Part III

Department of Transportation

Office of the Secretary

14 CFR Part 330

Procedures for Compensation of Air Carriers; Final Rule

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 330

[Docket OST–2001–10885]

RIN 2105–AD06

Procedures for Compensation of Air Carriers

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: On September 22, 2001, President Bush signed into law the Air Transportation Safety and System Stabilization Act (''the Act''). The Act makes available to the President funds to compensate air carriers, as defined in the Act, for direct losses suffered as a result of any Federal ground stop order and incremental losses beginning September 11, 2001, and ending December 31, 2001, directly resulting from the September 11 terrorist attacks on the United States. On October 29, 2001, the Department published a rule to carry out this Act, which it amended on January 2, 2002, and April 16, 2002. The Department requested comment on each of these issuances, and the comments received were addressed in the subsequent version of the rule. This document responds to the comments received on the April 2002 amendments.

DATES: This rule is effective August 20, 2002.

FOR FURTHER INFORMATION CONTACT: Steven Hatley, U.S. Department of Transportation, Office of International Aviation, 400 7th Street, SW., Room 6402, Washington, DC 20590. Telephone 202–366–1213.

SUPPLEMENTARY INFORMATION: As a consequence of the terrorist attacks on the United States on September 11, 2001, the U.S. commercial aviation industry suffered severe financial losses. These losses placed the financial survival of many air carriers at risk. Acting rapidly to preserve the continued viability of the U.S. air transportation system, President Bush sought and Congress enacted the Air Transportation Safety and System Stabilization Act (''the Act''), Pub. L. 107–42.

Under section 101(a)(2)(A–B) of the Act, a total of $5 billion in compensation is provided for ''direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such stoppage; and the incremental losses incurred beginning September 11, 2001 and ending December 31, 2001, by air carriers as a direct result of such attacks.''

On October 29, 2001 (66 FR 54616), the Department published in the **Federal Register** a final rule and request for comments to establish procedures for air carriers regarding compensation under the Act. The rule covered such subjects as eligibility, deadlines for application, information and forms required of applicants, and audit requirements. On January 2, 2002 (67 FR 250), the Department published an amendment to the final rule that responded to comments on the October 29 rule. On the same date (67 FR 263), the Department also requested comments concerning whether a set-aside of a portion of the funds authorized by the Act should be established to ensure adequate compensation for certain classes of air carriers. On April 16, 2002, the Department published further amendments to the final rule that, among other provisions, did establish such a set-aside (67 FR 18468). The Department requested comments on the rule, as amended. We received a number of comments, primarily from air carriers and their organizations, to which this document responds.

With the amendments to the rule and responses to comments we are publishing in this document, the Department has completed the rulemaking process. Part 330, as published today, will govern the ultimate determinations of the amount of compensation for which air carriers are eligible.

Comments and Responses

Air Ambulance Issues

The Association of Air Medical Services (AAMS) disagreed with the Department's decision, in the April 2002 amendments to Part 330, to base compensation for carriers eligible for the set-aside on a cents per available seat-mile (ASM) calculation. This, AAMS said, was contrary to the direction given by Congress in P.L. 107–42 authorizing the Department to establish a set-aside for carriers ''for whom application of a distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses.'' AAMS said that, as a result of this decision, air ambulances would still be compensated for a much smaller percentage of their losses than other small carriers flying similar aircraft. This is because air ambulances fly fewer ASMs than other types of carriers, though they incur greater expenses on a full-time basis while waiting for a call.

AAMS also disagreed with the Department's determination that the costs of medical personnel should not be viewed as transportation expenses, saying that these personnel were essential to the specialized functions for which air ambulances are licensed. Ten individual air ambulance companies submitted very similar letters that essentially echoed the AAMS position, adding that they supported AAMS' previous proposal for basing set-aside compensation for air ambulances on the Medicare fee schedule.

DOT Response

As part of the Aviation and Transportation Security Act, Pub. L. 107–71, Congress granted the President the discretion to establish a set-aside to provide compensation for various classes of air carriers, including air ambulances and air tour operators, which would be inadequately compensated under the ASM formula. Section 124(d)(2) of the Security Act further required that any amount so set aside be distributed ''proportionately among such carriers based on an appropriate auditable measure.''

The Department solicited comments through the **Federal Register** on whether such a set-side should be established, which types of carriers it might cover, and what method or methods might be used to allocate any funds so set aside. Many types of carriers offered comments, and although strong cases were made that smaller carriers had been disadvantaged by the ASM formula, the comments reflected a lack of consensus on any single approach that might be used to allocate set-aside funds proportionately among them. Different types of carriers tended to advocate compensation formulas that would address their particular situations, but not be applicable to the situations of other carriers. 67 FR 18468 (April 16, 2002).

Ultimately, the Department established the set-aside and, in its discretion, established eligibility standards that we believed were fair to all types of carriers in the affected classes. Those eligibility standards allowed carriers to participate if they operated fewer than 10 million ASMs in the benchmark month of August 2001. Rather than adopt a different allocation formula for each type of carrier, which would have been difficult to administer and would likely have perpetuated some of the originally perceived inequities, the Department chose to continue to rely on ASMs as the base auditable measure. At the same time,

however, it substantially increased the compensation that would be paid for each ASM flown by carriers in the affected classes. We also established a minimum recovery level of 25 percent of eligible transportation-related losses, as well as a higher ASM formula amount for the smallest air carriers (*i.e.,* fewer than 310,000 ASMs for August 2001). Typically, this approach will allow carriers in the set-aside class to receive significantly more than the amount of compensation that would have been paid under the ASM formula set forth in Pub. L. 107–42.

We understand that some carriers still feel disadvantaged under this approach. However, it largely brings smaller passenger carriers up to an equivalent level of compensation as received by the larger passenger carriers. In some instances, smaller carriers will be receiving up to 20 times more than they would have received under the old formula.

As to arguments that medical costs should be included within the compensation formula as integral to aircraft operations, the Department has interpreted the Stabilization Act as intended to provide short-term assistance for the air transportation industry. Assistance was limited to air carriers, defined in the first instance as providers of ''air transportation'' (49 U.S.C. § 40102(a)). Moreover, Congress established market share formulas based on ASMs and Revenue Ton-Miles (RTMs) as an alternative for establishing compensation. As these are measures of air transportation operations, not measures of ancillary activities, we have construed Congress' intent as limited to providing compensation for the air transportation activities of eligible carriers. Thus, when we have received applications from air carriers whose businesses contained non-air-transportation-related activities, we have sought to extract those activities from our compensation calculations (except if those activities were clearly de minimis).

Typical of the non-air-transportation operations that have been excluded are airfield concessions and ''package tour'' operations. If entities that operate only airfield concessions and ''package tours'' are ineligible in their own right for direct compensation, it follows that air carriers who derive significant revenues from such activities should not be able to obtain significant additional compensation on account of those activities.

This reasoning was extended to pertain as well to the non-air transportation aspects of air ambulance operations. A major portion of the revenues and expenses of air ambulances originate from the medical personnel, equipment, and supplies that are involved, elements that are not air-transportation in nature and which would not be eligible for compensation in their own right. We believe that the more expansive formula for assistance under the set-aside program, rather than broadening direct compensation to include losses attributable to these ancillary functions, constitutes the more appropriate way to provide an increased level of compensation for air ambulances, as well as for other small carriers.

Other Set-Aside Issues

Four carriers asserted that they should be included among the classes of carriers eligible for the set-aside. Sky Quest Charters said that it should be included as an indirect public charter carrier. Sky Quest also complained that using the August ASM-based formula is unfair in its circumstance, since its busiest months are in the fall and winter (e.g., student charter business for spring break). Vacation Travel International, another carrier that focuses on student charter trips, contended that student travel providers should be recognized as a separate class eligible for the set-aside, since there are several carriers in this category and their Spring 2002 losses are now known. Vacation Travel also complained that it is arbitrary to exclude indirect air carriers that cannot provide August 2001 ASM data because August is not when they conduct most of their operations.

Eagle Canyon Airlines/Eagle Jet Charter said that small certificated air carriers in the commuter air carrier classification should be included, suggesting that their omission from the April 2002 amendments to Part 330 was an inadvertent quirk in definition of commuter air carriers used in the rule. GWV International said that public charter indirect air carriers who do not report ASMs should be included. GWV also asked for clarification of how ASMs flown for an indirect air carrier by a foreign, as opposed to domestic, direct air carrier are counted.

Senator Charles Schumer of New York asked the Department to find a way of adjusting the floor for set-aside compensation above 25 percent to accommodate the situation of New York City area carriers (e.g., Liberty Helicopter) whose operations were shut down for a prolonged period after September 11.

The Sierra Club renewed its request that Grand Canyon air tour operators not be eligible for set-aside funds, or compensation generally. These operators, in the Sierra Club's view, are responsible for preventing compliance with the noise reduction provisions of National Park Overflights Act of 1987. The Sierra Club maintains that FAA's rulemaking on the subject of Grand Canyon air tours is very inadequate, and environmental groups are currently in litigation with the FAA. The Sierra Club says that it is inappropriate and counterproductive to compensate the tour operators, which will just result in continued or additional aircraft noise and further noncompliance with the Overflights Act.

DOT Response

The eligibility of each of the four air carriers who commented on this point to receive funds under the set-aside program can only be determined by reviewing the situation of each carrier on a case-by-case basis. The rule provides that certain air carriers (air taxi operators, commuters, and regionals) qualify for set-aside funds if they reported (or performed) fewer than 10 million ASMs for the month of August 2001. Indirect air carriers are also eligible for set-aside funds if they fall within the 10 million ASM limit.

In developing the set-aside program, the Department faced the difficult task of identifying classes of air carriers that would be inadequately compensated by the original statutory formula on the one hand, while on the other hand developing an alternative compensation formula that would more adequately compensate these carriers using an appropriate auditable measure. In addition to considering comments to the docket, the Department also reviewed data gathered by the Department through the application process used during the first two rounds of compensation payments. Here, the Department considered loss claim and ASM data to assist in determining which classes of carriers were inadequately compensated (as a percentage of their claimed losses) under the existing statutory formula.

With respect to Sky Quest's concern about the use of August ASMs, we note that August 2001 ASMs were specified by Congress in the Act as the benchmark for determining market shares. Further, we found that, in general, the use of August 2001 ASMs did not, by itself, result in serious inequities. Rather, we found that the use of a single ASM rate to compensate vastly different sized air carrier operations created inadequacies. In fact, the number of August 2001 ASMs reported by applicants provided the Department with both a method of determining which classes of carriers should receive set-aside funds and an

appropriate auditable measure for distributing those funds. By relying upon the August 2001 ASM data, the Department was able to identify two classes of carriers based on the size of their operations and develop a compensation formula to more adequately address their circumstances.

As noted above in the response to AAMS comments, we understand that some individual carriers may still feel disadvantaged by this approach. However, it largely brings smaller passenger carriers up to an equivalent level of compensation as received by the larger passenger carriers. In any event, we created a safety net that guarantees that all set-aside carriers will be compensated for no less than 25 percent of their eligible transportation-related losses, regardless of how many ASMs they report for the month of August 2001.

With respect to the comments that student travel providers should be treated as separate class of air carriers for set-aside purposes, we again make the point that the statute indicates that the Department should identify broad classes of carriers rather than try to adopt a different allocation formula for each type or subtype of carrier. Doing the latter would have made the program difficult to administer and would likely have perpetuated some of the originally perceived inequities. As discussed with respect to the air ambulance issues, the Department believes that its set-aside formula greatly increases compensation for a wide array of types of carrier and most individual carriers compared to the original statutory formula and makes the compensation system much more equitable.

Small certificated air carriers in the commuter classification are eligible for the set-aside provided they meet all other criteria. Public charter indirect air carriers are likewise eligible if they meet other set-aside criteria. We would point out, in response to GWV's comment, that air carriers that do not report ASMs to the Department on a regular basis are still eligible for set-aside funds. In our final rule published on October 29, 2001 and amended on January 2, 2002, the Department established the process that an air carrier must follow to report ASMs for the purpose of receiving compensation under the Act. These procedures are found at 14 CFR 330.31. A carrier that does not regularly report ASMs to the Department may submit a calculation of August 2001 ASMs to the Department with its application, meeting the requirements of § 330.31(d) (see 67 FR 250, January 2, 2002).

With respect to Senator Schumer's comment concerning the situation of New York City-based carriers such as Liberty Helicopters, we note the discussion of the rationale for the establishment of the set-side formula in the section of this document concerning air ambulance issues. The same rationale applies to a carrier like Liberty Helicopters. We note further that Liberty Helicopters is one of the carriers that would receive, under the set-aside, about 20 times the compensation that it would have received under the statutory formula in the Stabilization Act .

The Department does not have the ability under the statutes involved to tailor compensation to the individual needs or situation of every carrier. In accordance with the statute, the distribution approach is intended to address ''classes of air carriers'' and involve a ''proportional'' allocation based on an ''appropriate auditable measure.'' Moreover, the Department is required to distribute a finite compensation fund to an applicant pool of up to 600 carriers, pursuant to a Congressional mandate to provide compensation on an expeditious basis to ensure the survival of the airline industry—tasks that, taken together, make tailoring compensation decisions to individual applicant situations almost impossible.

We continue to believe that the Sierra Club's comment is an effort to use the airline compensation program rulemaking as a means further advocating its position concerning Grand Canyon air tour operators and the FAA's rulemaking concerning air tours over the Canyon. We understand fully that the Sierra Club and other environmental organizations strongly oppose Grand Canyon air tours, believe that current operations in the Canyon area are inconsistent with the National Parks Overflights Act, and disagree with the FAA's rulemaking on the subject. Those issues are being addressed in other forums. In enacting the Stabilization Act, Congress gave no hint that the resolution of these issues was to have any impact on the provision of compensation to air carriers who suffered losses as the result of the September 11 attacks.

Cargo Carrier Issues

The Cargo Airline Association (CAA) argued that by deleting 330.31(d)((i)(iv) and (d)(2) of the January 2002 version of the rule, the Department eliminated the requirement that indirect air carriers submit documentation that the direct air carrier providing the transportation is either ineligible for compensation or will not claim compensation. This deletion, CAA said, would permit indirect air carriers to count the same RTMs as their direct air carrier partners. This decision was inadequately justified and contrary to statute, in CAA's view. CAA also cited the statements in the Department's January 2002 preamble justifying the deleted provisions. CAA said the Department must better explain the rationale for this change and ensure that the total pool of RTMs, which acts as the denominator of the compensation equation, does not include RTMs not reported to the Secretary in April—June of 2001.

Emery Air Freight, while a member of CAA, disassociated itself from CAA's comment with respect to the ''double counting'' issue described above, saying that under the April 2002 amendments to Part 330, both the direct and indirect air carrier could appropriately claim their separate compensable losses from the same operation. In this connection, Emery suggested that the Department amend § 330.31(c)(3), which prohibits a carrier from including ASMs or RTMs that are ''reported by or are attributable to flights by another carrier.'' This, Emery said, was inconsistent with the deletion of §§ 330.31(d)(i)(iv) and (d)(2).

Emery also suggested that the methodology for calculating relative market share should be modified to equalize the situation of carriers that do both the indirect and direct carriage functions in-house and those that partner with a separate company. Under Emery's suggestion, an integrated carrier would add RTM equivalents representing their indirect carrier function to the numerator of their compensation cap formula and add the same number, here representing their direct carrier functions, to both the numerator and denominator. This would place the integrated carrier in roughly the same position as a pair of separate companies that together provided a comparable service.

Emery agrees that indirect air carriers should be able to claim RTMs flown by foreign direct air carriers, but only in the case where the foreign carrier is an all-cargo carrier (because of a reference in section 103(b)(2)(B) of the Act to all-cargo carriers). Foreign combined passenger-cargo carriers would not be entitled to the same treatment, Emery said. BAX Global disagreed with Emery on this point, saying that indirect air carriers like BAX should be able to count RTMs flown by foreign combination passenger-cargo carriers, lest the indirect carrier lose some compensation for which it was otherwise entitled. The indirect carrier's role is the same regardless of the type

of carrier on which the cargo is transported, BAX said.

DOT Response

The Department notes that, with respect to the inclusion of certain ASMs and RTMs claimed by indirect air carriers as eligible in Round 2, there was a body of such air transportation units (ASMs and RTMs) for which indirect carriers likely sustained losses resulting from the events of September 11 that were, nonetheless, deemed ineligible. Eligible ASMs and RTMs for indirect carriers had been considered those in which the carriers providing the direct flights had not, and would not, file as their own for compensation under this program. Ineligible ASMs and RTMs for indirect carriers were those operated on direct carriers that had filed, or would file, for compensation related to the applicable air transportation units. This distinction was established, even though both indirect and direct carriers might have sustained post-September 11 losses for those same, shared ASMs and RTMs. Furthermore, those September 11-related losses were sustained by indirect air carriers that were otherwise deemed fully eligible by the Department to file for compensation under the Act.

The Act has established a specific mechanism for determining the payment ceiling for eligible air carriers based upon their market shares, with the numerator representing a given carrier's respective ASMs or RTMs and the denominator representing the total number of these air transportation units. This resulting fraction is then multiplied by the level of the appropriation that is applicable based on the nature of the carrier's business, $0.5 billion for all-cargo operations (with market share measured by RTMs for the second quarter of 2001), and $4.5 billion for passenger and mixed passenger/cargo operations (with market share measured by ASMs for the month of August 2001), to determine ceiling payments by carrier. It is anticipated that these amounts are to be paid to eligible carriers unless their demonstrated September 11 related losses were less than that amount.

By regulation, 67 FR 18468, April 16, 2002, the Department has sought to remedy the distinction that prevented some indirect carriers from seeking compensation for their losses associated with the provision of these shared ASMs and RTMs. At the same time, the Department concluded that it was fair and appropriate to maintain the levels of compensation to both direct air carriers and indirect carriers that reported ASMs and RTMs that were not shared between eligible carriers.

The formula for payment of compensation established by the Congress in the Act provides an opportunity for the Department to meet this goal, since a number of air carriers are being compensated for demonstrated September 11-related losses that were less than the amounts they would receive based upon their market share of air transportation units. Given that fact, the authorized $4.5 billion for passenger and combination operations, and $0.5 billion for cargo-only operations, would not, in fact, be fully utilized. The Department believes that the Congressional direction to compensate air carriers—without distinction as to whether they were direct or indirect carriers—can be accomplished within the authorized amounts by allowing compensation for indirect air carriers based upon their shared ASMs and RTMs. However, in order to avoid double-counting those that were actually operated, we will not add those ASMs and RTMs to the denominator of the formula. The result will be to allow full consideration for the ASMs and RTMs of indirect carriers, without diluting the compensation that would be afforded direct carriers for unshared operations. We project that funds will be sufficient to fully compensate all carriers in this manner.

Finally, we agree with Emery that inclusion of section 330.31(c)(3) in the rule is inconsistent with our intent to allow shared ASMs and RTMs to be eligible for compensation-by inclusion in the numerator-and it should be deleted. Further, we concur with Emery that the clear language of the Act precludes us from compensating cargo operations that are performed on mixed passenger/cargo flights. Cargo tonnage associated with such services will not be eligible for inclusion in the RTM pool or in a carrier's computation of market-share payment based upon second quarter 2001 air transportation units.

Time Extensions and Agreed-Upon Procedures (AUP) Issues

Six carriers, the Air Transport Association (ATA), and the National Air Transportation Association (NATA) requested extensions of varying length in the deadline for reporting to the Department on the basis of full AUPs or simplified procedures. NATA also said that some small businesses may have difficulty in generating the data required by the April 2002 amendments to Part 330. NATA suggested that carriers who had filed applications in the previous two rounds, but who were unable to create and submit the newly required data in a timely fashion, could forego additional compensation in the third round without having to pay back compensation provided under the first two rounds. A certification and submission of tax returns would suffice in these cases.

Capital Cargo International Airlines suggested that the determination of whether a carrier would have to submit a full AUP report or comply with simplified procedures should be based on the relative reimbursement requested by carriers, rather than on the carrier's ASMs or RTMs. This would ease administrative burdens on carriers who were requesting relatively little compensation, the carrier said. GWV International asked for a waiver process to allow it to comply with the simplified procedures, rather than full AUPs. GWV said that it was modestly over the 10 million ASM ''breakpoint'' and that the cost of doing a full AUP engagement would exceed the increment in compensation it would get for having 13 million rather than 10 million ASMs.

DOT Response

Former § 330.21 (which has now been removed; see discussion of application deadlines below) provided procedures for granting time extensions to applicants that could demonstrate good cause. We granted time extension requests on an individual basis where appropriate. In some cases, we granted time extensions to groups. For example, we granted the 30-day time extension sought by NATA to NATA air carrier members who may be eligible for the set-aside program. Given the need to complete the compensation process as soon as possible and the prejudice to the program and other carriers that could come from extending deadlines, we did not make any across-the-board change in the application deadline, however.

We are not relaxing our requirement for a third-round application because the second round application lacked actual results for the September 11–December 31, 2001 period, but contained only estimates. Because the Act authorizes the Department to provide compensation only after a determination of air carrier losses, we need to have an accurate calculation of those losses, not merely estimates. Most NATA air carrier members are eligible to use simplified procedures in completing the third round application.

With respect to Capital Cargo's comment, for most carriers the ASM or RTM amount will track the amount that the applicant may receive. The Department required the full agreed-upon procedure report from larger carriers because their finances and loss statements typically involve larger

dollar amounts and greater complexity than the counterpart submissions from smaller carriers.

With respect to GWV's comment, the Department already has a process for applying for an exemption from a regulatory requirement (49 CFR 5.11–5.13). Thus there is no need to establish a separate waiver process for the air carrier compensation program. It should be noted that the Department ordinarily will not grant an exemption where the applicant is really seeking a change in a regulation, e.g., that the cut-off be 13 million ASMs rather than 10 million ASMs, as opposed to presenting a relatively unique situation and rationale for different treatment that is not generally applicable and was not considered in the rulemaking.

Direct and Incremental Losses

Kitty Hawk Aircargo objected to the Department's conclusion that any incremental gains by a carrier after the end of the FAA ground stop through December 31, 2001, offset losses that occurred during the ground stop. Kitty Hawk argues that the Department's position is inconsistent with the Act, which allegedly created two separate categories of losses eligible for compensation: direct and incremental losses. The Department's approach, in Kitty Hawk's view, collapses the two separate categories into one generic category, contrary to the language of the statute. Kitty Hawk also says that this approach is inconsistent with the Department's actions in compensating other carriers based on the conclusion that they were less profitable than they forecast before September 11, since Kitty Hawk's ground stop losses reduced the overall profitability of the company over the entire post-September 11 period.

ATA essentially agreed with Kitty Hawk's position, saying that carriers who suffered direct losses as the result of the ground stop resulting from September 11 attacks should be compensated for those losses, even if they did not suffer incremental losses after the ground stop. ATA views the Act as compensating carriers for these direct losses, plus any additional incremental losses. It does not believe there is a basis in the statute to reduce or offset compensation relating to direct losses on the basis of the carrier's financial performance during the post-ground stop period. This is true, ATA says, even if it is difficult as an accounting matter to separate the two.

DOT Response

The Department has carefully reviewed the language and legislative history of the Act, and we remain convinced that the interpretation underlying the April 2002 amendments to part 330 is consistent with the statute. Title I of the Act directs the President to ''compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001.'' Specifically, section 101(a)(2) directs the President to compensate air carriers for:

> (A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and
>
> (B) the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of [the terrorist] attacks.

The Act does not expressly address the situation in which an air carrier experiences short-term losses due to the Federal ground stop order but subsequently experiences better-than-forecasted profits for the balance of the year. Similarly, the Act does not expressly address the issue of whether an air carrier may exclude consideration of any incremental gains during the period of September 11 to December 31, 2001 or whether these gains must be used to offset order-related losses.

We note, first, that Congress wrote subparagraphs (A) and (B) in the conjunctive, linked by the word ''and.'' By using the term ''and,'' it appears that Congress intended the two categories of losses to be added or taken together, rather then allowing a choice between the two categories, or even the choice of ''either or both.'' This reading of section 101(a)(2) of the Act is buttressed by section 103(a), which provides that ''the amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) * * * that the air carrier *incurred*'' (emphasis added). In this section, Congress did not separately identify order- and attack-related losses, as Kitty Hawk and ATA suggest, but instead combined the two while establishing a limit on carrier compensation. We interpret the language in Section 103 as indicating that subparagraphs (A) and (B) in Section 101(a)(2) must be taken together when determining the amount of losses that a carrier has incurred.

We also note that the terms ''losses'' and ''incurred'' are not expressly defined in the Act. In common usage the term ''loss'' generally refers to something that is gone and cannot be recovered. The term ''incur'' is generally defined as meaning to become liable or subject to, as in to incur debt. Thus, the common usage of these terms would appear to indicate that Congress intended the Act to compensate carriers for those permanent, un-recovered economic losses that the carrier actually experienced or became liable for during the entire applicable time period.

Further, we observe that the Act does not qualify the terms ''incur'' or ''loss'' by indicating that an air carrier may claim temporary losses, nor does it indicate that a carrier may claim losses incurred in a partial period (i.e., September 11 to September 30, 2001). Instead, the Act establishes two specific and overlapping time periods during which losses must be incurred: (1) The period covered by the Federal ground stop order, and (2) the period from September 11 to December 31, 2001. These specific time periods serve both to limit the government's obligation to compensate carriers for their September 11-related losses and to establish a finite period during which incremental losses will change a carrier's calculation of direct order-related losses. Any losses not recovered as of December 31, 2001, will be considered permanent for the purposes of compensation under the Act.

In the Department's view, Kitty Hawk's approach could result in compensating carriers for losses that were not really incurred. For example, a loss might be claimed because a service could not be provided during the ground stop, yet that same service might have been provided at no loss two days later. Since the order-related losses are limited to only the period of time during which the order was in effect, any recovery of those losses by a carrier immediately after the order was lifted could only be identified by reviewing the carrier's revenues and expenses during the incremental loss period. Thus, the only way to ensure that a carrier is not compensated for temporary direct order-related losses that are later offset by increased gains, is to consider the carrier's incremental gains or losses through the end of 2001 along with its order-related direct losses.

We view the legislative history of the Act as consistent with our interpretation of the meaning of its language. Congress enacted the statute at a time when its members, and many other observers, believed that the air carrier industry as a whole would suffer immediate and prolonged financial losses as a result of the terrorist attacks. Congress was concerned that the effect of both the order and the public's fear of flying would force individual carriers and the industry as a whole over the brink of

collapse, with devastating impacts on the rest of the United States economy.

It is our view that Congress intended the compensation payments to serve as a stabilizing force for individual air carriers and for the industry. The purpose of the payments was to mitigate or prevent losses as a way of preventing bankruptcies, massive service disruptions and additional layoffs. In this context, we are not persuaded by claims that a carrier is entitled to be compensated for temporary losses suffered during the Federal ground stop order, when that same carrier returned to profitability and actually achieved better-than-forecasted profits during the remainder of 2001. Nor are we persuaded that a carrier's ground stop losses necessarily reduced the overall profitability of the company over the entire post-September 11 period; as noted, some and potentially all of those losses were only temporary in nature, and experience suggests that some carriers, especially cargo carriers, did better than expected after September 11 because of such September 11-related factors as increased shipments of military cargo, diversion of cargo to all-cargo aircraft from combi aircraft, etc. Again, we do not believe the Act requires, or Congress intended, to provide compensation to carriers in such situations.

Repayment Issues

Federal Express (FedEx) objects to the provision that a carrier must immediately repay any excess amount of compensation that the Department determines the carrier has received. In FedEx's view, such a demand for immediate repayment is inconsistent with the Act, which would not contemplate such a demand until after the final audit process had been completed. It would be inconsistent with the Act for the Department to make any final conclusions about the propriety of distributions to a carrier in advance of such an audit, in FedEx's opinion.

FedEx adds that if the Department is to attempt to recoup funds it asserts a carrier was overpaid, it must use the procedures of the Federal Claims Collection Act of 1966, which apply to, among other things, overpayments. Therefore, FedEx says, the rule must be revised to conform to the procedures required by the statute.

DOT Response

The Assistant Secretary for Aviation and International Affairs has been delegated the President's authority to determine whether an air carrier has incurred losses that are eligible for compensation under the Act. (See 66 FR 49507 (September 27, 2001); 49 CFR 1.56a(j); 66 FR 55599 (Nov. 2, 2001)). Once she has made a final determination, DOT will either pay that amount or demand a repayment if prior overpayment is found to have occurred. Nothing in the Act requires the Assistant Secretary to wait for a review by the Office of Inspector General, the General Accounting Office, or a private auditor to determine the appropriate compensation amount for a carrier. The Act provides merely that the Secretary or the Comptroller General ''may'' audit a carrier's statements and request any information they deem necessary for such an audit. If we or the Comptroller General choose later to conduct an audit, and that subsequent audit shows that the Assistant Secretary's determination should be modified, the Department retains the ability to make an appropriate adjustment at that time.

If the Assistant Secretary finds that a carrier has been paid an amount in excess of the compensation for which it is eligible, the excess amount becomes an overpayment as that term is defined in the Federal Claims Collection Act and its implementing regulations. The Department will comply with Collection Act requirements in pursuing recovery of overpayments made under the Stabilization Act. We have revised section 330.9(b) to make this point expressly.

Distinguishing Between Attack-Related and Other Items

FedEx disagrees with the substance of the April 2002 amendments to Part 330 with respect to some aspects of the computation of losses. FedEx says that neither economic gains or losses unrelated to the September 11 attacks should be factored into the compensation calculation. It argues that the April 2002 amendments to Part 330 impermissibly permits savings that would have occurred in the absence of the attacks to offset losses that resulted from the attacks. FedEx also says the Department should use certain accounting principles to distinguish between attack-related and unrelated items, so as not to arbitrarily exclude, for example, all cost savings, regardless of source. Generally, FedEx argues for a case-by-case approach that does not make assumptions about the relationship of an item to the September 11 attacks.

ATA expressed concern that DOT would exclude some non-recurring charges that resulted from the September 11 attacks while forcing the inclusion of certain non-recurring credits that do not result from the attacks. Negative variances between forecast and actual that meet the statutory test for compensability should not be automatically excluded; nor should positive variances that do not meet this test be automatically included. In addition, ATA views DOT's approach as too closely tied to profits and losses, rather than to liquidity.

DOT Response

Section 101(a)(2) of the Act provides that the President shall compensate air carriers for direct losses incurred beginning September 11, 2001, as the result of any Federal ground stop orders, and their incremental losses incurred between September 11 and December 31, 2001, ''as a direct result of the terrorist attacks.'' Section 103(a) directs that compensation may not exceed the amount ''that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier incurred.'' Section 107(3) of the Stabilization Act further specifies that the term ''incremental loss'' does not include any loss that the President determines would have been incurred if the September 11 terrorist attacks on the United States had not occurred.

In the preamble to DOT's April 2002 amendments to Part 330, we expressed our continued belief that ''in most cases, the comparison between pre-September 11, 2001 forecasts and actual results provides an approximation of the incremental losses that are a direct result of the [terrorist] attacks, and that approximation, without more, gives effect to the language of the statute.'' 67 FR at 18472. However, we have also noted that additional review of the components of an air carrier's loss may reveal that certain items were clearly not the direct or indirect result of the terrorist attacks and should therefore not be included in the basis for compensation.

To facilitate the DOT's review of an applicant's claim, and to assist applicants in preparing their claims, we published guidelines at 14 CFR 330.39, which identify the types of losses for which the DOT would not normally provide compensation. The preamble to our April 2002 amendments also provided a more detailed explanation of these items and how the DOT would treat them. Specifically, we identified ''aircraft impairment charges, charges or expenses attributable to lease buyouts, or other losses that are not actually or fully realized'' during the compensation period to be the types of losses that would not be eligible for compensation under the Act. 14 CFR 330.39(a)(1).

Further, we stated that the DOT ''will consider requests to accept adjustments for extraordinary or non-recurring expenses or revenues on a case-by-case basis.'' 14 CFR 330.39(a)(2).

In our guidance for air carriers identifying the types of losses for which we would not normally provide compensation, we stated that the DOT ''generally does not accept claims by air carriers that cost savings should be excluded from the calculation of incurred losses.'' 14 CFR 330.39(b). The DOT provided a detailed explanation of this provision in the preamble to the April 2002 amendments:

> The Department expects that many applicants have experienced, by their own initiatives, a reduction in actual versus forecast expenses, giving rise to a question of whether any such reductions may be excluded from the calculations of losses on the ground that they are unrelated to the terrorist attacks. As a general rule, for the reasons stated below, the Department will treat such variances for all categories of expenses as being attributable to the terrorist attacks. First, we would expect that cost reduction plans not related to the terrorist attacks would have been reflected in an applicant's pre-September 11 forecasted financials. Second, we believe it highly likely that expense reduction efforts undertaken after September 11 were attributable, implicitly if not explicitly, to changed expectations regarding revenues after the attacks. Third, we note that Congress provided that we compensate air carriers for 'losses incurred.' Cost savings that are achieved in fact reduce an air carrier's losses, and the calculations required under our regulations may not be manipulated to exclude actual reductions in expenses, thereby generating a basis for increased compensation. Moreover, we interpret Congress' language here as indicating an intent that carriers not receive increased compensation for achieving savings in costs, which they have an independent obligation to their managements and shareholders to achieve, and which it is reasonable to expect them to undertake to mitigate the need for compensation under the Act. (67 FR 18473.)

Nonetheless, we also acknowledged that there may be some circumstances in which cost savings could be proven, to our satisfaction, to be unrelated, directly or indirectly, to the terrorist attacks. We directed any air carrier claiming such adjustments to provide pre-existing documentary support for its claims.

We have reviewed the comments of FedEx and ATA on this issue and find no basis to believe that our approach to the issue of cost savings was misguided or incorrect. However, consistent with their comments, the Department intends to review all claimed adjustments on a case-by-case basis. In this regard, carriers are reminded that they have the burden of proving to the Department's satisfaction that the losses they claim are the direct or indirect result of the terrorist attacks, supplying sufficient documentation to demonstrate to the Department that the claimed losses should be compensated under the Act.

ASMs or RTMs Flown by Foreign Direct Carriers

FedEx renews an argument made in ATA comments to the January 2002 rule that in the case of an indirect air carrier applicant, both the indirect and direct carrier involved must be U.S. citizens. FedEx believes that direct air carriers should receive compensation before indirect air carriers are paid. FedEx further asserts that allowing U.S. indirect air carriers to claim compensation for RTMs or ASMs flown by foreign direct air carriers expands the program to compensate foreign air carriers, which it views as beyond the authority of the Act. FedEx also refers to audit problems that could be created by reliance on ASMs or RTMs flown by a foreign direct air carrier.

Unlike FedEx, ATA does not renew its argument that ASMs or RTMs involving U.S. indirect air carriers and foreign direct air carriers be excluded. However, ATA urges the Department to ensure that payments do not end up compensating foreign carriers or dilute the amount of compensation of other eligible carriers. DOT should also ensure that the total RTM universe does not exceed the RTMs reported to the Secretary for April—June 2001.

DOT Response

The process for calculating an indirect air carrier's ASMs or RTMs was established in the Department's final rule on January 2, 2002, and was amended on April 16, 2002. An eligible indirect air carrier (and only U.S. citizens may be eligible indirect air carriers) may count ASMs or RTMs flown by a foreign direct air carrier, even though that direct air carrier is not itself eligible for compensation under the Act. The Department sees nothing in the legislation that would preclude such eligibility for these indirect carriers and discerns little or no difference in the service provided, whether the passengers or cargo were carried on foreign or domestic flights.

We do not agree with the assertion that this approach results in compensation being paid to a foreign air carrier. The losses incurred by a U.S. indirect air carrier do not differ based on the citizenship of its direct air carrier partner. The Department properly implements the Act by compensating the U.S. indirect air carrier's losses. It is clear that the Department is not making any payments to a foreign air carrier based on its participation in an arrangement with a U.S. indirect air carrier, and we have every expectation that the Department's approach will not diminish the compensation available for eligible U.S. air carriers. It is equally clear that a U.S. air carrier like FedEx is not disadvantaged by the Department's decision to compensate indirect air carriers, regardless of the nationality of their direct air carrier partners.

Administrative Law Issues

CAA objected to the Department's decision to issue the April 2002 amendments to part 330 as a final rule with a request for comments, rather than as a notice of proposed rulemaking (NPRM). CAA asserted that the April 2002 amendments to part 330 made significant changes without adequate analysis.

FedEx disagreed with the Department's characterization of the April 2002 amendments to Part 330 as an emergency rule, saying that there was no longer an emergency seven months after September 11. In FedEx's view, the promulgation of the rule as an emergency rule was inconsistent with Administrative Procedure Act (APA) requirements. In addition, FedEx alleges, the rule makes substantive changes in DOT requirements (e.g., with respect to repayment rules) without adequate explanation. FedEx asks the Department to withdraw the April 2002 and issue an NPRM for a new rule that would comport with FedEx's notion of proper implementation of the Act.

DOT Response

Under the APA, agencies are authorized to issue rules without prior opportunity for notice and comment if such an opportunity is unnecessary, impracticable, or contrary to the public interest. Agencies may make final rules effective immediately if there is good cause for doing so. The Department believes that the April 2002 amendments to Part 330 clearly met these criteria. As noted above, the statute directs the Department to compensate carriers as expeditiously as possible. While many large carriers had already been paid significant compensation in the first several months of this program, many smaller carriers had not. These smaller carriers were still suffering the financial impacts of the September 11 attacks without the assistance of compensation, because application procedures covering them and the set-aside provision had not been put into place.

To delay further compensation to these carriers by issuing only a

proposed rule in April would have ignored the dire situation in which many of these carriers may find themselves. It was necessary to put the appropriate provisions in place immediately to address the situation of smaller carriers, rather than to wait for the resolution of disagreements with larger carriers. Doing so is consistent with Congressional direction to provide compensation on an expeditious basis to ensure the survival of the airline industry, a task we view as applying to all the segments of the industry. We also believe that clarifying for all parties the Department's views on compensation issues that had been raised by earlier comments and communications to the Department was a valuable service to the industry.

Even for carriers who commented specifically on this issue, the APA argument is now effectively moot. All carriers have now had the opportunity to comment, and the final version of Part 330 the Department is promulgating today, after considering all comments, establishes the provisions that will govern the final determination of compensation for the commenters and other carriers. All payments under previous versions of the rule were estimated and subject to adjustment. There have been no final payments or final determinations of the amount of compensation for which a carrier is eligible until now, after all the comments have been considered. Between the April 2002 amendments to Part 330 and this final rule, the commenting carriers and others have not lost any of the compensation for which they will be ultimately be eligible.

Finally, we would note that the emergency designation in the discussion on Executive Order 12866 in the preamble to the April 2002 amendments to Part 330 pertains to the timing and nature of Office of Management and Budget (OMB) review of the document, not to the APA justifications for publishing an immediately effective final rule without having previously issued a notice of proposed rulemaking. In light of the continuing threats to the United States from terrorism, and this nation's continuing efforts to recover from the effects of the September 11 attacks and rebuild a secure and financially sound air transportation industry, we cannot agree with assertions that there is no longer an emergency situation justifying expeditious processing of this rule by OMB.

Application Deadlines

Over the course of the Department's implementation of the Act, the Department has set, and on some occasions extended, deadlines for submission of applications for compensation and supporting materials. Initially, applications for carriers other than air taxis had to reach the Department by November 13, 2001. Air taxis were required to apply by November 26, 2001.

Subsequently, the Department permitted certain classes of carriers that had not previously filed an application or wanted to amend their applications to do so by February 8, 2002. Following the adoption of the set-aside for small carriers, we permitted carriers eligible for the set-aside to send in an initial or amended application by May 16, 2002. We applied this same deadline to carriers that did not previously submit an application for compensation because of the provisions of former § 330.31(d)(1)(iv) or (d)(2)(iv) or a carrier that wished to amend its application because of the removal of these provisions. The Department extended the May 16 deadlines for both these groups of carriers to July 29, 2002 for good cause, but no time extensions have been granted beyond July 29, 2002.

In addition, carriers that had already received compensation or submitted an application for compensation before April 16, 2002, were required to submit a ''third round'' application, including the report of the agreed-upon procedures engagement required by § 330.37(c) or the simplified procedures report required by § 330.37(d), as applicable. These carriers were also required to submit copies of monthly profit and loss statements for the months July 2001 through January 2002, each of which must have included the imputed price per gallon average of the fuel used for all aircraft during that month. These statements were required to be certified true and accurate (see § 330.33). These carriers were required to submit this application and all required supporting materials by May 16, 2002. The Department extended this deadline to July 29, 2002 for good cause, but no time extensions have been granted beyond July 29, 2002.

Because all these deadlines have previously been established and have passed, and the Department has not granted any further extensions, we believe that retaining an ''applications deadlines'' section in the regulatory text is unnecessary, since it would have no prospective effect. Consequently, we have removed and reserved § 330.21.

Miscellaneous Issues

ATA asked the Department to clarify that, beyond Form 330 and associated data, no more information would be needed from carriers. ATA also would like timetables for the completion of the compensation process. In addition, ATA requested that the Department publish on its web site the total ASM and RTM denominators used by the Department to calculate the compensation cap for carriers (which ATA believes is likely to be closer to 90 rather than 94 million ASMs) as well as the ASMs and RTMs associated with an eligible carrier's payment. ATA also suggested some minor edits to Form 330 (Final).

In addition, while the Department did not receive any comments specifically on the point, an issue has arisen during the review of carrier applications that merits discussion. This issue relates to the appropriate forecast to be utilized in determining a carrier's losses due to the events of September 11. In some cases, several forecasts might have been prepared, refined, or adjusted at different times, requiring the Department to choose among them for the one that best satisfies the need for an objective and timely forecast of financial expectations for the September 11 to December 31 period.

DOT Response

The Department is interested in Form 330 (Final) and the information and records that bear on the numbers in that form. In reviewing applications, the Department requests additional supporting information and documents where needed for the Department to make a proper determination. With respect to timetable, we have paid out over $4.3 billion of the $5 billion that was appropriated, and we remain committed to making the remaining payments as soon as possible.

With respect to publishing the final denominators, the Department has adjusted the denominators with each round to reflect the latest information and experience. At this time, the final numbers have still not been determined because of late filed data. Any air carrier paid under the formula can readily determine the denominator used in calculating its payment by using its own ASM or RTM total and $4.5 billion and $500 million, respectively. We have not made the minor edits to Form 330 (Final) suggested by ATA because most carriers were able to complete the form without confusion, and where there were inconsistencies the Department was able to readily resolve them.

As to forecast issues, we have required the submission of the most

recent pre-September 11 profit/loss forecast for September 11 to December 31, 2001. Expressions of this requirement appear in various wordings in the regulation, regulatory preambles, and the Model Agreed-Upon Procedures and Simplified Procedures. Our intent has always been to obtain a reliable, objective, and up-to-date forecast that reasonably represented a *pre-September 11* outlook as to expected financial results for the September 11 through December 31 period. In some cases, this may lead to difficult choices between timeliness and approval at the highest corporate levels. For example, the latest forecast adopted by the Chief Executive Officer of a company may rely on months-old analysis, which may be obsolete given events in the fast-changing airline industry. Alternatively, a forecast completed in early September by staff personnel for a limited corporate purpose may be very timely, but lack the reliability that would come from more senior review. In situations in which such choices must be made, the Department will seek in all cases to use that forecast which, under the totality of circumstances, provides the best combination of reliability, objectivity, and proximity to September 11, but that in all situations excludes consideration of the September 11 attacks and subsequent events.

Editorial Amendments

In this final rule, we are making a variety of editorial amendments to the final rule, to correct and update dates, citations, and references to Form 330 and remove some out-of-date references. For example, most of § 330.27(e) and all of § 330.27(f) are being removed as unnecessary and out of date, given changes to Form 330 and the existence of data on actual, rather than estimated, losses. Section 330.31(c)(3) is being deleted as inconsistent with the Department's determination that indirect air carriers may, in appropriate circumstances, include ASMs or RTMs representing operations of direct air carriers. We intended to delete this provision in the April 2002 publication, but through editorial error failed to do so. Because both passenger and all-cargo carriers are applying on the same form, we combined paragraphs (a) and (b) in § 330.27 and made clear that both groups, not just all-cargo carriers, must exclude non-air transportation related expenses. Section 330.13 has been updated to indicate that, if an air carrier previously received compensation, it must submit a Form 330 (Final) and other required documents even if it is not seeking additional compensation. One key reason for this requirement is that ''second round'' applications lacked actual results for the September 11–December 31, 2001 period, but contained only estimates.

Regulatory Analyses and Notices

Executive Order 12866

These amendments do not constitute an economically significant rule under Executive Order 12866, but they are significant under the Executive Order and the Department's Regulatory Policies and Procedures, because they affect important sectors of the air transportation industry and are of general policy interest. As part of a program to compensate air carriers for September 11-related losses, this rule will have a continuing favorable economic impact on the air transportation industry.

The Department concludes, based on the continuing extraordinary situation confronting the nation in the wake of the September 11 attacks and the Congressional imperative to ensure the expeditious completion of the compensation process, that this final rule merits expedited review by OMB, as provided in Section 6(a)(3)(D) of Executive Order 12866. In accordance with Section 6(a)(3)(D), this rule was submitted to the Office of Management and Budget for review. As noted above, treating this rulemaking as one in which the need for expeditious action precludes use of the normal OMB review process does not implicate APA issues with respect to prior opportunity for notice and comment and immediate effective date.

Regulatory Flexibility Act and Federalism

Under 5 U.S.C. 604, we note that this rule may have a significant economic effect on a substantial number of small entities. In analyzing small entity impact of the amendments, we believe that, to the extent that the rule does impact small air carriers, the impact is a highly favorable one, since it will result in carriers subject to the set-aside receiving more compensation than these carriers would have received otherwise. The Department has also concluded that this rule does not have sufficient federalism implications to warrant the consultation requirements of Executive Order 13132.

Paperwork Reduction Act

The Department's analysis of the information collection burdens under the April 2002 amendments to Part 330 applies to this rule as well. Under the Paperwork Reduction Act, the Office of Management and Budget approved this information collection on an emergency basis, with Control Number 2105–0548.

Administrative Procedure Act Findings

The public has had a prior opportunity to comment on the provisions of today's final rule, in the context of the opportunity for comment provided to the April 2002 amendments to part 330. While the Department believes that, because of the need to move quickly to provide compensation to air carriers for the purpose of maintaining a safe, efficient, and viable commercial aviation system in the wake of the events of September 11, 2001, this opportunity would not be mandated under under 5 U.S.C. 553, the Department provided it in the interest of allowing interested parties a fair opportunity to make their views known. The preamble of this rule has responded to the comments we received. For the same reasons cited above, a delay of the effective date under 5 U.S.C. 801, *et seq.*, is not being provided. On the same basis, we have determined that there is good cause to make the rule effective immediately, rather than in 30 days.

List of Subjects in 14 CFR Part 330

Air carriers, Grant programs—transportation, Reporting and recordkeeping requirements.

Issued this 9th day of August 2002, at Washington, DC.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

For the reasons set forth in the preamble, the Department revises 14 CFR part 330, to read as follows:

PART 330—PROCEDURES FOR COMPENSATION OF AIR CARRIERS

Subpart A—General Provisions

Sec.

330.1 What is the purpose of this part?
330.3 What do the terms used in this part mean?
330.5 What funds will the Department distribute under this part?
330.7 [Reserved]
330.9 What are the limits on compensation to air carriers?
330.11 Which air carriers are eligible to apply for compensation under this part?
330.13 If an air carrier received compensation under the Act previously, does it have to submit a third-round application?
330.15 [Reserved]
330.17 [Reserved]

Subpart B—Application Procedures

330.21 [Reserved]
330.23 To what address must air carriers send their applications?
330.25 What are the components of an air carrier's application for compensation?

330.27 What information must certificated and commuter air carriers submit?
330.29 What information must air taxi operators submit on Form 330 (Final) and Form 330–C?
330.31 What data must air carriers submit concerning ASMs or RTMs?
330.33 Must carriers certify the truth and accuracy of data they submit?
330.35 What records must carriers retain?
330.37 Are carriers which participate in this program subject to audit?
330.39 What are examples of types of losses that the Department does not allow?

Subpart C—Set-Aside for Certain Carriers

3330.41 What funds is the Department setting aside for eligible classes of air carriers?
330.43 What classes of air carriers are eligible under the set-aside?
330.45 What is the basis on which air carriers will be compensated under the set-aside?
Appendix A to Part 330—Forms for All Carriers
Appendix B to Part 330—[Reserved]
Appendix C to Part 330—Forms for Air Taxi Operators

Authority: Pub. L. 107–42, 115 Stat. 230 (49 U.S.C. 40101 note); sec. 124(d), Pub. L. 107–71, 115 Stat. 631 (49 U.S.C. 40101 note).

Subpart A—General Provisions

§ 330.1 What is the purpose of this part?

The purpose of this part is to establish procedures to implement section 101(a)(2) of the Air Transportation Safety and System Stabilization Act (''the Act''), Public Law 107–42, 115 Stat. 230 (49 U.S.C. 40101 note). This statutory provision is intended to compensate air carriers for direct losses incurred as a result of the Federal ground stop order issued by the Secretary of Transportation, and any subsequent orders, following the terrorist attacks of September 11, 2001, and incremental losses incurred from September 11 through December 31, 2001, as the result of those attacks.

§ 330.3 What do the terms used in this part mean?

The following terms apply to this part:

Air carrier means any U.S. air carrier, as defined in 49 U.S.C. 40102.

Air taxi operator means an air carrier, other than a commuter air carrier, that holds authority issued under 14 CFR part 298 and 14 CFR part 121 or part 135.

Available seat-miles (ASMs) means the aircraft miles flown on each flight stage by an air carrier multiplied by the number of seats available for revenue use on that stage.

Certificated air carrier means an air carrier holding a certificate issued under 49 U.S.C. 41102 or 41103.

Commuter air carrier means an air carrier as defined in 14 CFR 298.2(e) that holds a commuter air carrier authorization issued under 49 U.S.C. 41738.

Incremental loss means a loss incurred by an air carrier in the period of September 11, 2001–December 31, 2001, as a result of the terrorist attacks on the United States of September 11, 2001. It does not include any loss that would have been incurred if the terrorist attacks on the United States of September 11, 2001, had not occurred.

Regional air carrier means an air carrier that operates at least one large aircraft and has annual operating revenues of less than $100 million.

Revenue ton-miles (RTMs) means the aircraft miles flown on each flight stage by the air carrier multiplied by the number of tons of revenue cargo transported on that stage. For purposes of this part, RTMs include only those resulting from all-cargo flights.

§ 330.5 What funds will the Department distribute under this part?

Under this part, the Department will distribute up to the full amount of the compensation it determines is payable to air carriers under section 103(b) of the Act, and up to the full amount of the set-aside provided for in subpart C of this part to air carriers eligible for it. The Department may require additional information to support payments to individual carriers in connection with this final payment.

§ 330.7 [Reserved]

§ 330.9 What are the limits on compensation to air carriers?

(a) You are eligible to receive compensation equaling the lesser of your direct and incremental losses or the amount calculated by the formula set forth in section 103(b)(2) of the Act.

(b) If at any time we determine that a carrier has been compensated in an amount that exceeds the amount to which it is entitled under section 103(b) of the Act or the subpart C set-aside program, the Department will notify the carrier of the basis for the determination, the amount that must be repaid, and the procedures to follow for making a repayment. We will follow collection procedures under the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 et seq,) to the extent required by law, in recovering such overpayments. This process will also apply to collection of overpayments by the Department as a result of an audit by representatives of the Department, including the Office of the Inspector General, or the Comptroller General under section 103 of the Act, which may be the subject of a separate collection action.

§ 330.11 Which carriers are eligible to apply for compensation under this part?

(a) If you are a certificated air carrier, a commuter air carrier, an air taxi, or an indirect air carrier, you are eligible to apply for compensation under Subpart B of this part.

(b) [Reserved]

(c) If you are a foreign air carrier, commercial operator, flying club, fractional owner, general aviation operator, fixed base operator, flight school, or ticket agent, you are not eligible to apply for compensation under this part.

§ 330.13 If an air carrier received compensation under the Act previously, does it have to submit a third-round application?

Yes, if, as an air carrier, you previously received compensation under section 101(a)(2) of the Act, you must, in all cases, submit a complete Form 330 (Final) and other documents required under this part. You must do so even if you are not seeking additional compensation.

§ 330.15 [Reserved]

§ 330.17 [Reserved]

Subpart B—Application Procedures

§ 330.21 [Reserved]

§ 330.23 To what address must air carriers send their applications?

(a) You must submit your application, and all required supporting information, in hard copy (not by fax or electronic means) to the following address:

U.S. Department of Transportation, Aviation Relief Desk (X–50), 400 7th Street, SW., Room 6401, Washington, DC 20590.

(b) If your complete application is not sent to the address in paragraph (a) of this section as required in this section, the Department will not accept it.

§ 330.25 What are the components of an air carrier's application for compensation?

As an air carrier applying for compensation under this part, you must provide to the Department all materials described in §§ 330.27–330.33. The Department will not accept your application if it does not comply fully with the requirements of this subpart.

§ 330.27 What information must certificated and commuter air carriers submit?

(a) You must submit Form 330 (Final), found in Appendix A to this part. Data supplied on Form 330 (Final) in Appendix A to this part must be tied

only to the airline portion of their businesses and must exclude non-air transportation related expenses.

(b) [Reserved]

(c) Air carriers that operate both passenger/combination aircraft and all-cargo aircraft and routinely report to the Department ASMs and RTMs separately for both types of flights must submit two versions of Form 330 (Final) in Appendix A to this part to seek compensation on both an ASM and RTM basis. Financial and operational data (both actual and forecasted) must be disaggregated and correlate exclusively to one or the other type of operation.

(d) You must include the following financial information on Form 330 (Final) for the period September 11, 2001 through December 31, 2001:

(1) Your pre-September 11, 2001, profit/loss forecast for the period beginning September 11, 2001, and ending December 31, 2001. This forecast must reflect seasonal reductions in capacity and the cost savings associated with such reductions. Documentation verifying that the pre-September 11, 2001, forecast was, in fact, completed before that date must also be submitted with your application.

(2) Your actual results for that same period reflecting any losses that were a direct result of the terrorist attacks of September 11, 2001. These actual results must incorporate all cost reductions associated with capacity reductions and furloughs you made due to the reduced demand for air service after the September 11th attacks (*e.g.,* employee pay adjustments and furloughs, changes in aircraft fleet in service, schedule and capacity changes, etc.).

(3) The difference between your forecast profits/losses and actual results for that period (*i.e.,* the difference between the figures in paragraphs (d) (1) and (2) of this section).

(4) The actual losses you report must be net losses, before taxes, taking into account savings from such items as reductions in passenger and cargo handling costs, fuel consumption, landing fees, revenue/traffic-related expenses (*e.g.,* commissions, food and beverage, booking fees, credit card fees), and savings of other costs due to the ground stop and subsequent schedule/capacity/staff reductions (including savings from layoffs of employees, adjusted for severance payments), as well as proceeds from business recovery insurance or other insurance payments. You must not report as losses insurance premium increases that have been or will be compensated by the Government under the Act, or other losses that have been or will be compensated by other subsidies or assistance provided by Federal, state, or local governments.

§ 330.29 What information must air taxi operators submit on Form 330 (Final) and Form 330–C?

As an air taxi operator, you must complete Form 330 (Final) in accordance with the requirements in § 330.27. You must also complete pages 2, 5, and 6 (certifying pages 2 and 5) of Form 330–C as shown in Appendix C to this part. Explanatory notes are included on that Form.

§ 330.31 What data must air carriers submit concerning ASMs or RTMs?

(a) Except as provided in paragraph (d) of this section, if you are applying for compensation as a passenger or combination passenger/cargo carrier, you must have submitted your August 2001 total completed ASM report to the Department for your system-wide air service (e.g., scheduled, non-scheduled, foreign, and domestic).

(b) Except as provided in paragraph (d) of this section, if you are applying for compensation as an all-cargo carrier, you must have submitted your RTM reports to the Department for the second calendar quarter of 2001.

(c) In calculating and submitting ASMs and RTMs under paragraphs (a) and (b) of this section, there are certain things you must not do:

(1) Except at the direction of the Department, or to correct an error that you document to the Department, you must not alter the ASM or RTM reports you earlier submitted to the Department. Your ASMs or RTMs for purposes of this part are as you have reported them to the Department according to existing standards, requirements, and methodologies established by the Office of Airline Information (Bureau of Transportation Statistics).

(2) You must not include ASMs or RTMs resulting from operations by your code-sharing or alliance partners.

(d) If you have not previously reported ASMs or RTMs as provided in paragraphs (a) and (b) of this section for a given operation or operations, you may submit your calculation of ASMs or RTMs to the Department with your application. You must certify the accuracy of this calculation and submit with your application the data and assumptions on which the calculation is based. After reviewing your submission, the Department may modify or reject your calculation.

(1) If you are a direct air carrier that has operated your aircraft for a lessee (i.e., a wet lease, or aircraft, crew, maintenance, and insurance (ACMI) operation), you may submit your calculation of ASMs or RTMs for these flights. Your submission must include the following elements:

(i) Documentation that you otherwise qualify as an air carrier;

(ii) Documentation that you are a wet lessor, and an explanation of why you did not previously report ASMs or RTMs for the operations in question;

(iii) Documentation of the identify of the wet lessees involved in these operations; and

(iv) Accurate and auditable records of ASMs or RTMs actually flown during the relevant time period for these operations.

(2) If you are an indirect air carrier, you may submit your calculation of ASMs or RTMs for flights that direct air carriers have operated for you under contract or other arrangement. Your submission must include the following elements:

(i) Documentation that you otherwise qualify as an air carrier;

(ii) Documentation that you are an indirect air carrier, and an explanation of why you did not previously report ASMs or RTMs for the operations in question;

(iii) Documentation of the identify of the direct air carriers involved in these operations; and

(iv) Accurate and auditable records of ASMs or RTMs actually flown during the relevant time period for these operations.

§ 330.33 Must carriers certify the truth and accuracy of data they submit?

Yes, with respect to all information submitted or retained under §§ 330.27–330.31 and 330.35, your Chief Executive Officer (CEO), Chief Financial Officer (CFO), or Chief Operating Officer (COO) or, if those titles are not used, the equivalent officer, must certify that the submitted information was prepared under his or her supervision and is true and accurate, under penalty of law.

§ 330.35 What records must carriers retain?

As an air carrier that applies for compensation under this part, you must retain records as follows:

(a) You must retain all books, records, and other source and summary documentation supporting your claims for compensation of direct and incremental losses pursuant to Sections 101, 103, and 106 of the Act. This requirement includes, but is not limited to, the following:

(1) You must retain supporting evidence and documentation demonstrating the validity of the data you provide under §§ 330.27–330.31.

(2) You must retain documentation verifying that your pre-September 11, 2001, forecast was the most recent forecast available to that date.

(3) You must also retain documentation outlining the assumptions made for all forecasts and the source of the data and other inputs used in making the forecasts.

(4) You must agree to have your independent public accountant retain all reports, working papers, and supporting documentation pertaining to the agreed-upon procedures engagement conducted by your independent public accountant under the requirements of this part for a period of five years. The accountant must make this information available for audit and examination by representatives of the Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other Federal agencies.

(b) You must preserve and maintain this documentation in a manner that readily permits its audit and examination by representatives of the Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other Federal agencies.

(c) You must retain this documentation for five years.

(d) You must make all requested data available within one week from a request by the Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other Federal agencies.

§ 330.37 Are carriers which participate in this program subject to audit?

(a) All payments you receive from the Department of Transportation under this program are subject to audit. All information you submit with your applications and all records and documentation that you retain are also subject to audit.

(b) Except as provided in paragraph (d) of this section, before you are eligible to receive payment from the final installment of compensation under the Act, there must be an independent public accountant's report based on the performance of procedures agreed upon by the Department of Transportation with respect to the carrier's forecasts and actual results. The independent public accountant's engagement must be performed in accordance with generally accepted professional standards applicable to agreed-upon procedures engagements. You must submit the results of the agreed-upon procedures engagement to the Department with your application for payment of the final installment.

(c) The following are the core requirements for the independent public accountant's review:

(1) Determine that the earnings forecast presented to the Department was inclusive of the entity's full operations as an air carrier and was the most current forecast prepared prior to September 11, 2001;

(2) Determine that, if forecasts presented to the Department for prior periods had material variances from actual results, the carrier provided explanations to account for such variances;

(3) Determine that the methodology for allocating revenue and expenses to the periods September 1–10 and September 11–30, from the forecasted and actual September results, was in accordance with air carrier records and analyses;

(4) Determine that the actual expenses and revenues presented to the Department are in accordance with the official accounting records of the carrier or the financial statements included in the carrier's Securities and Exchange Commission Form 10–Q (for availability, see 17 CFR 249.0–1(b)), and consistent with Generally Accepted Accounting Principles (GAAP), except to the extent that GAAP would require or allow treatment that would be inconsistent with the Act or this part;

(5) Verify that the carrier provided explanations supporting the allocation methodology used if the forecasted and/or actual results for the September 11—30 period was different from allocating 66.7 percent of the total amounts for September;

(6) Determine that the carrier provided full explanations for all material differences between forecast and actual results for the September 11—30, 2001 period and the October 1—December 31, 2001 period;

(7) Determine that the amounts included in management's explanations for such material differences were in accordance with the carrier's analysis of such fluctuations, and the amounts and explanations were traceable to supporting general ledger accounting records or analyses prepared by the carrier;

(8) Determine that the amounts presented to the Department in Form 330 (Final), pages 2–3, in appendix A to this part that the carrier identified as adjustments to the difference between the pre-September 11 forecast and actual results for the period September 11 through December 31, 2001, were in accordance with the official accounting records of the carrier or the financial statements included in the carrier's Securities and Exchange Commission Form 10–Q, and consistent with GAAP, except to the extent that GAAP would require or allow treatment that would be inconsistent with the Act or this part;

(9) Determine that the insurance recoveries and government payments reported by the air carrier and offsetting income were in accordance with the air carrier's general ledger accounting records;

(10) Determine that the information presented in the air carrier's Supplemental Certification were in accordance with the air carrier's general ledger accounting records;

(11) Include in the auditor's report full documentation for each exception taken by the auditor; and

(12) Identify air carrier reports and records utilized in performing the procedures in paragraphs (c)(1) through (11) of this section.

(d) If you are a carrier that reported fewer than 10 million ASMs for the month of August 2001 or fewer than two million RTMs for the quarter ending June 30, 2001, you are not required to report to the Department on the basis of an agreed-upon procedures engagement by an independent public accountant. Instead, you may report on the basis of simplified procedures approved by the Department.

§ 330.39 What are examples of types of losses that the Department does not allow?

(a)(1) The Department generally does not allow air carriers to include in their calculations aircraft impairment charges, charges or expenses attributable to lease buyouts, or other losses that are not actually and fully realized in the period between September 11, 2001 and December 31, 2001.

(2) The Department will consider requests to accept adjustments for extraordinary or non-recurring expenses or revenues on a case-by-case basis. If, as a carrier, you make such a request, you must demonstrate the following to the satisfaction of the Department:

(i) That the expense or revenue was (or was not, as appropriate) the direct result of the terrorist attacks of September 11, 2001;

(ii) That the revenue or expense was reported in accordance with Generally Accepted Accounting Principles (GAAP), except to the extent that the GAAP would require or allow treatment that would be inconsistent with the Act or this part;

(iii) That an expense was fully borne within the September 11—December 31, 2001, period and is permanent; and

(iv) That the resulting additional compensation would not be duplicative of other allowances for compensation.

(b) The Department generally does not accept claims by air carriers that cost savings should be excluded from the calculation of incurred losses. Consequently, the Department will generally not allow such claims to be used in a way that has the effect of increasing the compensation for which an air carrier is eligible.

Subpart C—Set-Aside for Certain Carriers

§ 330.41 What funds is the Department setting aside for eligible classes of air carriers?

The Department is setting aside a sum of up to $35 million to compensate eligible classes of air carriers, for which application of a distribution formula containing ASMs as a factor, as set forth in section 103(b)(2) of the Act, would inadequately reflect their share of direct and incremental losses.

§ 330.43 What classes of air carriers are eligible under the set-aside?

There are two classes of eligible air carriers:

(a) You are a Class I air carrier if you are an air taxi, regional, commuter, or indirect air carrier and you reported 310,000 or fewer ASMs to the Department for the month of August 2001 (10,000 ASMs per day).

(b) You are a Class II air carrier if you are an air taxi, regional, commuter, or indirect air carrier and you reported between 310,001 and 10 million ASMs to the Department for the month of August 2001.

§ 330.45 What is the basis on which air carriers will be compensated under the set-aside?

(a) Except as provided in paragraph (c) of this section, as an air carrier eligible for compensation through the set-aside, you will be compensated for an amount calculated as provided in paragraph (b) of this section.

(b)(1) As a Class I carrier, your compensation will be calculated using a fixed ASM rate equivalent to the mean losses per ASM for all Class I carriers applying for compensation.

(2) As a Class II carrier, your compensation will be calculated using a graduated ASM rate equivalent to—

(i) The mean loss per ASM for all Class I carriers applying for compensation, for each of the first 310,000 ASMs reported; and

(ii) The mean remaining loss per ASM for all Class II carriers applying for compensation for each ASM in excess of 310,000.

(3) For purposes of this paragraph (b), ASMs are those verified by the Department for August 2001.

(4) Any compensation payments previously made to air carriers eligible for the set-aside will be deducted from the amount calculated as the carrier's total compensation under the set-aside formula.

(c) If you are an air carrier whose compensation is calculated using an ASM rate as provided in paragraph (b) of this section, your compensation will not be less than an amount equivalent to 25 percent of the direct and incremental transportation-related losses you have demonstrated to the satisfaction of the Department were incurred as a direct result of the terrorist attacks of September 11, 2001. Your compensation will not be more than an amount equivalent to the mean percentage of compensation for losses received by passenger and combination air carriers that are not eligible for the set-aside funds, unless you would have been compensated for more than that percentage of losses under the formula set forth in section 103(b)(2) of the Act, in which case you will be compensated under that formula.

Appendix A to Part 330—Forms for All Carriers

BILLING CODE 4910–62–P

FORM 330 (Final)
Page 1 of 6
(for completion by all carriers)

AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT APPLICATION FOR COMPENSATION

NAME, ADDRESS, AND TELEPHONE NUMBER OF AIR CARRIER	
TYPE OF DOT ECONOMIC AUTHORITY HELD	
COMPENSATION AMOUNT RECEIVED TO DATE UNDER SECTION 101(A)(2) OF THE ACT	

Forecasted and Actual Losses for the Period September 11, 2001 to December 31, 2001

	Column A	Column B	Column C
Carrier Financial Data	Pre 9/11/01 Forecast for the Period 9/11/01 thru 12/31/01	Actual Results for the Period 9/11/01 thru 12/31/01	Difference Between the Pre 9/11/01 Forecast & Actual Results for 9/11/01 thru 12/31/01 (A-B)
1. Total Operating Revenue			
2. Total Operating Expenses			
3. Total Operating Income (1-2)			
4. Non-Operating Revenue			
5. Non-Operating Expenses			
6. Income Before Taxes (3 + 4 –5)			

Fuel Price Used in Forecast: Average price per gallon of fuel used in the pre-September 11 forecast for the period from September 11, 2001 through December 31, 2001: _____.

Monthly Profit and Loss Statements: Per section 330.21(h), you must also submit copies of monthly profit and loss statements for the months July 2001 through January 2002, each of which must include the imputed price per gallon average of the fuel used for all aircraft during that month.

FORM 330 (Final)
Page 2 of 6
(for completion by all carriers)

NAME OF AIR CARRIER	

Identification and Explanation of Out-of-Period, Extraordinary or Non-Recurring Revenues and Expenses, and Adjustments to Revenues and Expenses Stemming from Changes Not Directly Related to the Terrorist Events of September 11, 2001

(Note: For definitions and background information in completing this Form, see the sections on "Impairments and Other Extraordinary or Nonrecurring Items" and "Adjustment for Losses Not the Direct Result of the Events of September 11" in the preamble accompanying the original issuance of this form (67 FR 18468; April 16, 2002). See especially the discussion of impairment of assets, lease buyouts, and limitations on treatment of cost reductions below forecast. The three blank lines in each table indicate the format, rather than the expected number of entries.)

In Table 1 below, separately identify and explain any and all out-of-period revenues, extraordinary or non-recurring revenues, and adjustments to actual revenues not directly related to the terrorist events of September 11, 2001 that were **included** in Column B (Boxes B-1 and B-4 on page 1 of this form) but not in Column A, the forecasted revenues. You should use a separate sheet to provide a complete explanation.

Table 1. Adjustments in Included Revenues

Included Revenue Items	Dollar Amount	Explanation (on separate sheet)

In Table 2 below, separately identify and explain any and all out-of-period revenues, extraordinary or non-recurring revenues, and adjustments to actual revenues not directly related to the terrorist events of September 11, 2001 that were **excluded from** Column B (Boxes B-1 and B-4 on page 1 of this form) but not from Column A, the forecasted revenues. You should use a separate sheet if necessary to provide a complete explanation.

Table 2. Adjustments in Excluded Revenues

Excluded Revenue Items	Dollar Amount	Explanation (on separate sheet)

In Table 3 below, separately identify and explain any and all out-of-period expenses, extraordinary or non-recurring expenses, and adjustments to actual expenses not directly related to the terrorist events of September 11, 2001 that were **included** in Column B (Boxes B-2 and B-5 on page 1 of this form) but not in Column A, the forecasted expenses. You should use a separate sheet to provide a complete explanation.

Table 3. Adjustments in Included Expenses

Included Expense Item	Dollar Amount	Explanation (on separate sheet)

In Table 4 below, separately identify and explain any and all out-of-period expenses, extraordinary or non-recurring expenses, and adjustments to actual expenses not directly related to the terrorist events of September 11, 2001 that were **excluded from** Column B (Boxes B-2 and B-5 on page 1 of this form) but not from Column A, the forecasted expenses. You should use a separate sheet to provide a complete explanation.

Table 4. Adjustments in Excluded Expenses

Excluded Expense Item	Dollar Amount	Explanation

FORM 330 (Final)
Page 4 of 6
(to be completed by all-cargo carriers)

NAME OF AIR CARRIER	

ALL-CARGO OPERATIONAL DATA

Cargo Carrier Operating Data	Pre 9-11-01 Forecast for the Period 9-11-01 through 12-31-01	Actual Data for the Period 9-11-01 through 12-31-01	Difference Between the Pre 9-11-01 Forecast and Actual Loss for the Period 9-11-01 thru 12-31-01
Revenue Tons Enplaned			
Revenue Ton Miles (RTMs)			
Available Ton Miles (ATMs)			
Load Factor (%)			
Departures Performed			
Cargo Revenue Yield per RTM			

FORM 330 (Final)
Page 5 of 6
(to be completed by passenger and combination carriers)

NAME OF AIR CARRIER	

PASSENGER AND COMBINATION CARRIER OPERATIONAL DATA

Passenger Carrier Operating Data	Pre 9-11-01 Forecast for the Period 9-11-01 thru 12-31-01	Actual Data for the Period 9-11-01 thru 12-31-01	Difference Between the Pre 9-11-01 Forecast and Actual Loss for the Period 9-11-01 thru 12-31-01
Revenue Passengers Carried			
Revenue Passenger Miles (RPMs)			
Available Seat Miles (ASMs)			
Load Factor (%)			
Breakeven Load Factor (%)			
Average Length of Passenger Haul			
Departures Performed			
Average Passenger Fare ($)			
Passenger Revenue Yield per RPM (cents)			
Operating Revenue per ASM (cents)			
Operating Expense per ASM (cents)			

FORM 330 (Final)
Page 6 of 6

NAME, ADDRESS AND TELEPHONE NUMBER OF AIR CARRIER	

Compensation payments will be made via Electronic Funds Transfer. The Department of Transportation can process this type of payment only if air carrier applicants submit the following banking information with their request:

Air Carrier Bank Routing Number	_ _ _ _ _ _ _ _ _ (9 positions)
Air Carrier Bank Account Number	
Name on Account	
Type of Account (*e.g.*, checking, savings)	
Taxpayer ID Number	

I CERTIFY THAT THE INFORMATION ON FORM 330 (FINAL) AND THE MONTHLY PROFIT AND LOSS STATEMENTS SUBMITED AS PART OF THE APPLICATION ARE TRUE AND ACCURATE UNDER PENALTY OF LAW. FALSIFICATION OF A CLAIM FOR COMPENSATION/PAYMENTS UNDER PUB. L. 107-42 MAY RESULT IN CRIMINAL PROSECUTION RESULTING IN FINE AND/OR IMPRISONMENT.

_____ _____

CERTIFYING OFFICER
(CEO, CFO or COO)

DATE

Print Name_____ Telephone Number _____

Title: _____

Appendix B to Part 330—[Reserved]

Appendix C to Part 330—Forms for Air Taxi Operators

FORM 330-C
Page 1 of 7

AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT APPLICATION FOR COMPENSATION FOR AIR TAXI OPERATORS

NAME, ADDRESS AND TELEPHONE NUMBER OF AIR TAXI OPERATOR	
DATE OF MOST RECENT PART 298 REGISTRATION OR AMENDMENT	
FAA PART 135 OR 121 CERTIFICATE NUMBER	

PART 1: FORECASTED & ACTUAL LOSSES FOR THE PERIOD SEPTEMBER 11, 2001 TO SEPTEMBER 30, 2001 (in whole dollars)

Air Taxi Financial Data	Contracted/Planned Operations for the Period 9-11-01 through 9-30-01	Actual Results for the Period 9-11-01 through 9-30-01	Difference Between the Pre 09-11-01 Forecast and Actual Results for 9-11-01 through 9-30-01
Total Operating Revenue			
Total Operating Expenses			
Total Operating Income			
Non-Operating Income			
Non-Operating Expenses			
Income Before Taxes			

The operations for hire for which losses are claimed in this chart must have been cancelled entirely, resulting in a complete loss of revenue for those operations. Revenue for these operations must not have been re-captured through subsequent re-accommodation of the same trips. Such non-recovered losses in revenues had associated countervailing reductions in operating expenses that have also been incorporated in the data and calculations in this chart.

FORM 330-C
Page 2 of 7

NAME OF AIR CARRIER	

PART 2: REPORT OF OPERATING STATISTICS FOR AIR TRANSPORTATION FOR HIRE*
(in whole numbers)

FOR AIRCRAFT USED IN PASSENGER, PASSENGER/CARGO & OTHER TRANSPORT SERVICES FOR THE MONTH OF AUGUST 2001

Aircraft Type	Number of Type in Use for Transport Services**	Number of Seats Available per Aircraft for Use by Paid Passengers	Revenue Aircraft Miles Flown in Transport Services	Available Seat Miles in Transport Services	Revenue Airborne Hours in Transport Services	Revenue Aircraft Departures in Transport Services
1)						
2)						
3)						
4)						
5)						
6)						

FOR AIRCRAFT USED ONLY FOR ALL-CARGO OPERATIONS* FOR THE QUARTER ENDED JUNE 30, 2001**

Aircraft Type	Number of Type in Use for Transport Services**	Available Payload Capacity (in pounds)	Revenue Aircraft Miles Flown in Transport Services	Cargo Revenue Ton Miles in Transport Services (if known)	Revenue Airborne Hours in Transport Services	Revenue Aircraft Departures in Transport Services
1)						
2)						
3)						
4)						
5)						
6)						

* Air transportation for hire includes only commercial services operated under Part 121 or Part 135 operating certificates. Other services operated under Part 91, as well as dry leases and flights operated for the purpose of flight instructions, maintenance testing and aircraft positioning are excluded.
** This number should be the same number as listed on the operator's current Part 298 registration and current FAA-issued operations specifications.
*** For all-cargo operations, please note aircraft that are operated under contract for another express or all-cargo carrier and identify those carriers and provide details on a separate, attached sheet.

NOTE: If the operator records and reports aircraft miles, the operator should compute and enter available seat miles by multiplying the number of seats times the aircraft miles. If the operator does not report aircraft miles, DOT will compute the available seat miles. If the operator records and reports cargo RTMs, the operator should enter the amounts directly on the form. If not, DOT will estimate the RTMs based on the other data submitted. All carriers, however, must report airborne hours and departures.

NAME OF AIR CARRIER	

PART 3: ESTIMATE OF LOSS FOR THE PERIOD OCTOBER 1, 2001 TO DECEMBER 31, 2001 (in whole dollars)

Air Taxi Financial Data	Pre 09-11-01 Forecast* for the Period 10-01-01 through 12-31-01	Current Forecast for the Period 10-01-01 through 12-31-01	Difference Between the Pre 09-11-01 Forecast and the Current Forecast for the period 10-01-01 through 12-31-01
Total Operating Revenue			
Total Operating Expenses			
Total Operating Income			
Non-Operating Income			
Non-Operating Expenses			
Income Before Taxes			

* For those air taxi operators that do not typically prepare forecasts, use contracted/scheduled services that were scheduled before September 11, 2001 and can be documented.

FORM 330-C
Page 4 of 7

NAME OF AIR CARRIER	

PART 4: OPERATIONAL DATA
(in whole numbers or dollars)

Air Taxi Operational Data		Pre 9-11-01 Forecast for the Period 10-01-01 through 12-31-01	Current Forecast for the Period 10-01-01 through 12-31-01	Difference Between the Pre 9-11-01 Forecast and the Forecast for 10-01-01 through 12-31-01
Total operating revenues				
Total operating expenses				
Total operations for hire (departures)				
Total available seat miles **OR**				
Total revenue ton miles				
Total aircraft in fleet:				
(Show aircraft types in the next column)	1)			
	2)			
	3)			
	4)			
	5)			
	6)			
Seats available per aircraft:				
(Show aircraft types in the next column)	1)			
	2)			
	3)			
	4)			
	5)			
	6)			
Total aircraft miles flown:				
(Show aircraft types in the next column)	1)			
	2)			
	3)			
	4)			
	5)			
	6)			
Total airborne hours:				
(Show aircraft types in the next column)	1)			
	2)			
	3)			
	4)			
	5)			
	6)			
Available payload capacity (in lbs.) (all-cargo operations only):				
(Show aircraft types in the next column)	1)			
	2)			
	3)			
	4)			
	5)			
	6)			

FORM 330-C
Page 5 of 7

NAME OF AIR CARRIER	

PART 5: HISTORICAL OPERATIONAL DATA
(in whole numbers or dollars)

Air Taxi Operational Data		Month of Sept 2000	Month of Oct 2000	Month of Nov 2000	Month of Dec 2000		Month of July 2001	Month of Aug 2001
Total operating revenues								
Total operating expenses								
Total operations for hire (departures)								
Total available seat miles **OR**								
Total revenue ton miles								
Total aircraft in fleet:								
(Show aircraft types in the next column)	1)							
	2)							
	3)							
	4)							
	5)							
	6)							
Seats available per aircraft:								
(Show aircraft types in the next column)	1)							
	2)							
	3)							
	4)							
	5)							
	6)							
Total aircraft miles flown:								
(Show aircraft types in the next column)	1)							
	2)							
	3)							
	4)							
	5)							
	6)							
Total airborne hours:								
(Show aircraft types in the next column)	1)							
	2)							
	3)							
	4)							
	5)							
	6)							
Available payload capacity (in lbs.) (all-cargo operations only):								
(Show aircraft types in the next column)	1)							
	2)							
	3)							
	4)							
	5)							
	6)							

NAME OF AIR CARRIER	

Part 6: ACCOUNT INFORMATION AND CERTIFICATION

Compensation payments will be made via Electronic Funds Transfer. The Department of Transportation can process this type of payment only if air carrier applicants submit the following banking information with their requests:

Air Carrier Bank Routing Number	_ _ _ _ _ _ _ _ _ (9 positions)
Air Carrier Bank Account Number	
Name on Account	
Type of Account (*e.g.*, checking, savings)	
Taxpayer ID Number	

I CERTIFY THAT THE INFORMATION CONTAINED IN PARTS 1 THROUGH 5 OF THIS FORM (FORM 330-C) IS TRUE AND ACCURATE UNDER PENALTY OF LAW. FALSIFICATION OF A CLAIM FOR COMPENSATION/PAYMENTS UNDER PUB. L. 107-42 MAY RESULT IN CRIMINAL PROSECUTION RESULTING IN FINE AND/OR IMPRISONMENT (18 U.S.C. 1001).

Certifying Officer (signature) **Date**

Print Name and Title (CEO, CFO or COO) **Telephone Number**

EXPLANATORY NOTES:

1. In order to avoid the possibility of misinterpretation, we are requiring that numbers or notations (for example, "N/A") be entered into all data blocks on all forms even if those numbers are zero. We also note that all amounts are to be reported in whole numbers.

2. The required forecasted amounts should be based on a forecasting and/or budgeting approach or similar accounting system if the air carrier routinely uses that method. For those carriers whose accounting systems or methodologies rely more on actual or short run projections, we ask that they make a "good faith" effort to categorize their revenues and expenses according to the required forms. In this regard, the following may provide additional assistance.

3. As general guidance, we include the following information that has been adapted from 14 CFR Part 298 (Section 298.62) or 14 CFR Part 241. Air transportation for hire includes only commercial services operated under Part 121 or Part 135 operating certificates. Other services operated under Part 91, as well as dry leases and flights operated for the purpose of flight instructions, maintenance testing and aircraft positioning are excluded.

4. Total operating revenues generally include gross revenues accruing from services ordinarily associated with air transportation. It is meant to include revenue derived from scheduled service, on demand and nonscheduled service operations.

5. In general, total operating expenses include expenses of the type usually and ordinarily incurred in the performance of air transportation. It includes expenses incurred: directly in the in-flight operation of aircraft; in the holding of aircraft and aircraft personnel in readiness for assignment to an in-flight status; on the ground, in controlling and protecting the in-flight movement of aircraft; landing and handling aircraft on the ground; selling transportation, servicing and handling passenger and cargo traffic; promoting the development of traffic; and administering operations generally. It shall also include expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation and all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services.

6. Non-operating income includes such items as interest income and other similar investments. It may also include capital gains (for example, aircraft sales). Non-operating expenses include interest expense and other expenses attributable to financing or other activities that are extraneous to and not an integral part of air transportation or its incidental services. It may also include capital losses (for example, aircraft sales).

7. We note that claims for compensation cannot be based solely on lost revenues, that is, the total revenue that an air taxi operator expected to receive from flights that would have been flown but were cancelled due to the DOT-mandated flight stoppage. While these amounts would provide information on the changes in total operating revenues, it is important to recognize that changes in total operating expenses must also be considered in calculating operating income and net income which is ultimately used to determine compensation. Also, for those carriers with less sophisticated accounting systems, the calculation of forecasted total operating expenses might be based on an analysis of fixed costs (those that stay the same regardless of the number of flights or changes in passenger and cargo traffic) and variable costs (those that change in proportion to the level of operations and traffic volume).

8. All carriers should be able to provide actual financial results for the period of September 11 to September 30, 2001, as required. We will not accept incomplete forms or reports that are submitted in lieu of the required forms and we will not accept the submission of invoices, flight logs, sales records, calendar notations of events or other similar documents in lieu of the required forms. However, supporting documentation must be retained for audit purposes.

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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.

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LIST OF PUBLIC LAWS

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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. 3009/P.L. 107–210
Trade Act of 2002 (Aug. 6, 2002; 116 Stat. 933)
Last List August 9, 2002

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